

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

ALASKA BOARD OF MARINE PILOTS

OCTOBER 27, 2015
CAPTAIN COOK HOTEL
ANCHORAGE, ALASKA

MEETING AGENDA

<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>	<u>TAB</u>
0830	Call to Order – Roll Call	Chair	1
0905	Review Agenda Declarations / Recusals	Chair	
0910	Review / Approve Minutes: April 16, 2015 & May 28, 2015	Chair	2
0920	Public Comment	Chair	
0950	MPC Report	MPC	
1000	Business Items		
	a.) Board Revenue and Expense Report	Ms. Hewlett	3
	b.) Correspondence	Chair	
	d.) Annual Report	MPC	
	e.) Formal recognition of pilots receiving endorsements	Chair	
1020	Pilot Organization Reports	Chair	4
	a.) SEAPA		
	i.) Organization update		
	ii.) Bieli pilot station		
	b.) SWAPA		
	i.) Organization update		
	c.) AMP		
	i.) Organization update		
1030	Break		

"Provide for the maintenance of efficient and competent pilotage service to assure the protection of shipping, the safety of human life and property and the protection of the marine environment." AS 08.62.040

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1040	Ethics Act Training	MPC	5
1100	Interpretation of "meets with any casualty" as per 12 AAC 56.960(d) Duties of Pilots	Chair	6
1130	Possible creation of casualty reporting requirements for foreign pleasure-craft	Chair	7
1200	Lunch		
1310	Public Comment	Chair	
1330	Possible definition for Overall Length	Chair	8
1420	Break		
1430	Executive Session	Chair	
1530	Other Business: Next Meeting	MPC	
1600	Adjournment	Chair	

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DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF MARINE PILOTS**

DRAFT MINUTES OF MEETING

April 16, 2015

Westmark Baranof Hotel

127 North Franklin St.

Juneau, Alaska

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

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a special meeting of the Alaska Board of Marine Pilots was held on April 16, 2015 at Westmark Baranof Hotel.

April 16, 2015

Call to Order/Roll Call

The meeting was called to order at 1:03 PM by Chairman Chris Hladick. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Hans Antonsen	- Pilot Member
David Arzt	- Pilot Member
Richard Erickson	- Agent Member
Tom Rueter	- Agent Member
Shirley Marquardt	- Public Member
Robert Richmond	- Public Member
Chris Hladick, Chair	- Commissioner's Designee

Staff present:

Crystal Dooley	Marine Pilot Coordinator (MPC)
Martha Hewlett	Corporations, Business, and Professional Licensing Admin Officer I

Members of the public present:

Mike Tibbles	Alaska Steamship Association
Bill Gillespie	Alaska Marine Pilots

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 2**

Bob Arts	Alaska Maritime Agencies
Jim Smith	NOAA – OCS
Paul Axelson	North Pacific Maritime
Luke Hasenbank	ALAMAR
Jim Lee	Alaska Maritime Agencies
Jeff Baker	SEAPA
Doug Sturm	SEAPA
Bob Berk	CLAA
Pete Garay	SWAPA

Jenni Zielinski from SWAPA subscribed telephonically.

Agenda Item 1 Review and Set Agenda

Hearing no objections to the set agenda, it was:

RESOLVED to approve the agenda.

Agenda Item 2 Review/Approve Minutes

On review of the January 29, 2015 and March 31, 2015 meeting minutes, there were no objections to the content or convey of Board minutes.

Motion: Approve January 29, 2015 and March 31, 2015 meeting minutes.

Moved by: Captain Arzt
Seconded by: Ms. Marquardt

The Chair asked if there were any comments or changes. Captain Antonsen stated that page 3 on the January 29 minutes stated that there were few licensees that hadn't renewed and Captain Antonsen stated that agents were registered, not licensed.

Captain Antonsen asked if travel reimbursement conversations from last meeting should be discussed in context to the minutes or be placed on the agenda. The Chair requested to have the conversation within the agenda.

The Chair asked if there was any objection to the minutes and there were none. The Board APPROVED the minutes unanimously.

Agenda Item 3 Public Comment

ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 3

The Chair asked if there was anyone signed up for public comment and there was none.

Agenda Item 4

Business Items

a.) Board Revenue and Expense Report: Ms. Hewlett introduced herself to the Board as the Administrative Officer and explained that Ms. Chambers couldn't attend. She requested the Board examine their FY 15 report. She stated that the third fiscal quarter had ended on March 31 and that licensing revenue had ended at \$222,200.00, the Board was in a renewal year, direct personal expenditures had ended at \$53,180.00 and that direct personal services were the MPC's time working on the program, other investigators, the regulation specialists or the paralegal if they were assisting the Board. Ms. Hewlett stated that expenses were further defined by account number code on the second page. Ms. Hewlett stated that travel ended at \$8,612.00 and it corresponded to the 7000 series listed on the second page, starting at a category for airfare and ending at a category for meals and incidentals. She stated that tax reimbursements were the reimbursements going to Board members for travel. Ms. Hewlett stated that contractual costs were \$4,052.00, and those costs correlated to the 7300 series listed on the second page, beginning at training and conferences and ending at commission sales. She stated that, within that, the honorariums/stipends category was if a Board member lived in the community where the meeting was taking place, the Division would pay round-trip mileage from the Board member's home to the location of the meeting and a stipend for meals. Ms. Hewlett stated that the I/A commission sales category was minimal amount of fees paid for E-Travel, hotel room fees, and other costs. Ms. Hewlett stated that legal fees were \$3090.00, and that was all spent on regulations and advice. Ms. Hewlett stated that supply costs were \$567.00 and were the 7400 series listed on the second page. Ms. Hewlett stated there was \$26.00 spent for office supplies, such as the binders used for Board packets. Ms. Hewlett stated that food supplies covered the coffee and tea the Board purchased for meetings. Ms. Hewlett asked if there were any questions.

Mr. Erickson asked Ms. Hewlett if legal fees covered the attorney general's presence at meetings. Ms. Hewlett stated that she didn't believe the Board was billed for that time unless the Board invited them to speak. Ms. Hewlett explained that it was used when the MPC had questions or needed advice from the attorney through the Department of Law.

Captain Arzt stated that there was one more quarter to close out the fiscal year, and that when he compared this year to FY 14 and FY 13, he saw a large surplus due to renewal year, and understood that there was still information missing for the last fiscal quarter. Captain Arzt asked if Ms. Hewlett had an estimation of what the Board could expect to have by the end of the quarter. Ms. Hewlett said that she believed the Board would definitely end with a surplus and the surplus

ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 4

would carry the Board through a non-renewal year. Ms. Hewlett stated she wasn't positive on how many licensees were still outstanding on the renewal process. The MPC stated that she had about five or six licensees that still needed to be renewed.

Captain Arzt asked if the Attorney General's office charged by the hour and Ms. Hewlett said they did. She stated there was a separate rate for the paralegals and attorneys, and she believed the paralegals charged \$138/hour and the attorneys charge \$167/hour.

Captain Arzt stated that the Board had previously requested the Attorney General to attend meetings and now the Board chooses to have the Attorney General available by phone if needed. Captain Arzt stated it saved a lot on legal fees.

Captain Antonsen asked, if in off years when the cumulative surplus is increasing, could license fees possibly be reduced? Ms. Hewlett stated that the Director and Ms. Chambers were planning to do fee analysis after Session and would contact Boards with their recommendations. Captain Antonsen asked if there was a rough time Ms. Chambers would report back, and Ms. Hewlett said she didn't know. Ms. Hewlett stated that programs would be analyzed as their programs came up for renewal. Ms. Hewlett stated that the Director and Ms. Chambers would be going through the analysis process, contacting boards for their recommendation, and then public noticing regulation changes, which was a lengthy process. Ms. Hewlett stated that the Division was attempting to complete fee analysis earlier so that licensees had more time to complete their renewals.

The Chair asked if the licensing fee was in statute and how it could be changed. Ms. Hewlett stated that it was not in statute and that fees were set in regulations. She stated that, by statute, Boards should set fees where revenues offset expenses. Ms. Hewlett stated that the amount is set in regulations, and that the regulation specialist would send the regulation to the Department of Law for review, and then to the Lieutenant Governor's office for signature and approval. She stated when that process is complete and the regulation is back to the Division, the regulation is changed, the fee is set, and it's legal to send out renewal notices.

The Chair asked when renewal notices would be sent. Ms. Hewlett stated they had to be sent out 30 days before renewal dates, and that some boards required renewal information be sent out 60 days before renewal dates. Ms. Hewlett said that the Division would like to do analysis earlier in the season so that licensees received their renewal notices 60 – 90 days in advance of renewal. She stated this would be easier on licensees and for the Division in that the Division wouldn't receive a massive amount of renewals in a short period of time, thus making it more streamlined between the front desk staff and the examiners. Ms. Hewlett stated that this information would be brought before the Board either by person at

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 5**

a Board meeting or by email so that licensees could present feedback to the Division.

The Chair asked for more questions and there were none.

b.) Foreign Pleasure Craft Update: The MPC requested the Board to examine a spreadsheet detailing vessels requesting exemptions for FY 15, which were broken down by vessels requesting exemptions after July 1, 2014 until the present. The MPC stated that there were four vessels approved and two vessels on her desk, and that May was the most popular month. She stated that last fiscal year the Board granted 15 exemptions, and that she believed there would be a similar amount this year. The MPC asked if there were any questions. The Chair asked if it were possible to get more vessels and the MPC said it was.

Captain Arzt asked why Exemption #191 (the M/V REST ASSURED) paid only \$750.00 for the exemption, and asked if it was based on the length overall of the vessel, in that the vessel was only 75-ft long. The MPC said that was correct.

c.) Captain Herring Unlimited Endorsement: The MPC gave the Board a packet with the MPC's checklist of Captain Herring's information.

The Chair asked for a motion:

Motion: Accept the Marine Pilot application for Captain Herring

Moved by: Ms. Marquardt
Seconded by: Captain Arzt

The Chair asked for discussion. Captain Antonsen said that motion should be changed to give an endorsement. Captain Antonsen asked when Captain Herring's anniversary date was and the MPC said May 2.

The motion was amended:

Motion: Grant Captain Herring's license as a Marine Pilot upon his anniversary date:

Moved by: Captain Antonsen
Seconded by: Mr. Rueter

Ms. Marquardt asked if there had been discussion on this question before, in terms of if the marine pilot application had been made, and the Board reviews it to make sure all requirements have been met, and then the Board up or down votes

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 6**

on the particular issue, or does the Board set the requirements and when it's demonstrated the requirements are all met, the Board issues a license.

Captain Antonsen said that the Board determined that regulations and statutes stated that it was an action of the Board to grant endorsements and that the Board may have no grounds to deny a license if all requirements are met, the Board still must take an action to license a marine pilot on a specific date. Captain Antonsen said that the Board may not vote no, but the Board should not abdicate the responsibility so that promoting a pilot is an action of the Board. The Board concurred that Captain Antonsen's recollection was correct.

Captain Arzt said that if requirements are completed and the only outstanding thing are anniversary dates, the Board could accept a pilot had met all the standards that a license will be issued. Therefore, the Board could vote at Board meetings even though it didn't go into effect until the last component is reached.

Captain Antonsen said the Board had previously voted to grant a license to take effect on a specific date.

The Chair asked for a roll-call vote.

Motion: Grant Captain Herring a promotion to Unlimited Pilot upon the completion of the anniversary date:

Hans Antonsen	Yes
David Arzt	Yes
Richard Erickson	Yes
Robert Richmond	Yes
Tom Rueter	Yes
Shirley Marquardt	Yes
Chris Hladick, Chair	Yes

The motion passed.

d.) Captain Gillespie Training Pilot Endorsement: The Chair asked for discussion. The MPC stated that Captain Gillespie would be granted the endorsement to take effect immediately in that his three year anniversary date had already passed.

Motion: Accept the training pilot endorsement for Captain Gillespie, effective immediately

Hans Antonsen	Yes
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ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 7

David Arzt	Yes
Richard Erickson	Yes
Robert Richmond	Yes
Tom Rueter	Yes
Shirley Marquardt	Yes
Chris Hladick, Chair	Yes

The motion passed.

e.) Update on Regulations Project: The MPC drew the Board's attention to the draft of 12 AAC 56.120 (a) the Board had passed at the last meeting and asked the Board if they were comfortable with the language before it was moved to the Regulation Specialist. She stated that the Regulations Specialist would move the regulation into a 30 day public comment period, and that the Board needed to decide if they wanted to accept oral testimony at a teleconference or only accept written testimony, or if the Board preferred to wait until the next scheduled meeting in October. The MPC recommended the Board to set a teleconference date approximately 30 days in advance to hear oral testimony and adopt the regulation. The MPC stated she had attached the flowchart of the regulations process, and showed the Board where they were in the process. The MPC stated that the Regulations Specialist could not publish the Public Notice until the Board had agreed if they wanted to hear oral testimony and when the teleconference to adopt the regulations would be. The MPC stated that the Board had to accept written testimony but could choose to accept oral testimony. The MPC recommended May 20, approximately 35 days from the meeting.

Motion: Accept oral testimony on the proposed regulation change approximately 35 days from the Board meeting

Moved by: Captain Antonsen
Seconded by: Mr. Rueter

The Chair asked for further discussion. There was none. The motion PASSED unanimously.

f.) Board Travel: Captain Antonsen referred to the Board to minutes from the previous meeting. He stated that the Board had been told that expense reports from the October meeting that did not get reimbursed were to be reported to the MPC, and that he had reported information to the MPC and did not receive payment back. Captain Antonsen said he asked if there was a separate form, and he was informed that the Division was going to using a different system. Mr. Rueter stated that he was successful in getting reimbursed for his October expenses through coordination with the MPC and Ms. Chambers. Captain Antonsen stated the estimate of expenses done by the MPC are done months in

advance of the meeting, but by the time the Board members are making arrangements, the air travel rates have drastically changed and certain rates are no longer available. He stated that Board members were told by previous Chair that the Board was self-funded, and that all expenses would be reimbursed and that the Board was traveling directly to and from the meeting location. Captain Antonsen stated that Ms. Chambers said, regardless of the fact the Board was fully funded by licensees, they were also under the same condition of other Boards.

The Chair stated that he would discuss the issue with Ms. Chambers, and that he believed the issue was between the State of Alaska's estimate of airfare and the purchased fare. Captain Antonsen asked if there was another way to solve this issue, and if the MPC could do a first and second estimate of prices closer to the meeting date.

Mr. Richmond asked if he could purchase the cheapest round-trip ticket from Juneau to Anchorage and if it would be an issue if he traveled to Seattle and paid the difference himself. Mr. Richmond stated that he believed the State wouldn't reimburse those tickets. Mr. Erickson said the conversation at the last Board meeting was that the former Chair stated the Board was self-funded, and the group decided to pay all prices and that Board members were not booking first class tickets. The MPC stated that Ms. Chambers was the expert, but the Division had a policy on how much they would pay for hotel rooms and flights, and that the MPC believed the trigger for the reapprove process was more than \$100 over the estimate or 20%. She stated that Ketchikan was an issue in that she used E-Travel to price out tickets approximately six weeks in advance, as per Division policy, and the tickets are always much higher than the estimate. She stated that there was a process in place to deal with this situation. She stated that Board members were used to filling out a form after a Board meeting, however Board members will now forward receipts to the MPC and the MPC will forward the information to the Travel Desk, and the Travel Desk will complete the form for Board members. She stated that there was very little travel costs under her control as the MPC.

Captain Antonsen asked if there was a certain amount of time the MPC was required to release the estimate, and the MPC stated she was required by the Division Standard Operating Procedure to release the information approximately six weeks to two months in advance. The Chair stated he would get up to speed on the issue.

a.) SEAPA : Captain Doug Sturm stated he was representing SEAPA on behalf of Captain Ed Sinclair. Captain Sturm stated the organization had 49 full pilot members, 1 general pilot and 1 deputy pilot. He stated that the deputy pilot was at the 90,000 K tonnage and that she would be an unlimited pilot in a year. He stated that SEAPA had two trainees, Captain Lundamo and Captain Palmer, in the initial phase of training, and that Captain Hagerup retired over the winter. He stated there would be a trainee candidate selection exam in May in Seattle at the Pacific Maritime Institute, and at present there were 18 applicants. He stated that SEAPA had not decided how many trainees would be accepted but the list would determine who would be brought on when SEAPA decided to allow more in. Captain Sturm stated that Captain Sinclair had mailed a letter to the cruise line companies detailing piloting best practices and the information was given in the Board binder.

b.) SWAPA: Ms. Jenni Zielinski addressed the Board via teleconference. She stated the organization had 15 unlimited pilots and one deputy pilot, four trainees, and that three of the trainees were on the apprentice track, and that one pilot would upgrade to unlimited this year, and one trainee would be sitting for an exam in early 2016, one projected for late 2016, and one projected for late 2017.

c.) AMP: Captain Gillespie represented AMP and stated the organization had nothing to report.

The MPC requested the Board recognize Captain Ron Ward from SWAPA for the actions he took on January 21, 2015 when a tanker he was onboard lost propulsion, dropped anchors, and how he solved the issue.

Captain Arzt asked if there were any license upgrades from the last meeting to be recognized and the MPC said there was none.

The Chair stated the Board would recess until 1:50 pm.

1:52pm Back on record

Agenda Item 6 Subcommittee Brief on the Investigative Process

Mr. Reuter stated that Captain Antonsen, Mr. Richmond, and he, under the guidance of the MPC, met as a subcommittee. He stated that originally the subcommittee believed that the investigative process didn't have any real reference to the Board. He stated that on the draft version of the investigative matrix 95% of the complaints that come to the Division either die on their own accord or are very simplistic and don't become a major investigation. He stated that the subcommittee received some clarity. The Chair asked if the investigation process handout was the current process and if the process was changing. Mr.

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 10**

Rueter stated the second matrix provided clarification. Mr. Rueter stated that Board interaction occurs in two occasions, and that the investigation could go to multiple places before it was pushed to the investigations section. Mr. Rueter stated the subcommittee received clarification on what the Board's role was in investigations.

The Chair asked if Mr. Reuter wanted the Board to have more involvement in the process. The Chair asked if there was any liability to the Board. Captain Arzt asked if the subcommittee had created the new matrix or if it was created by the Division. Captain Arzt stated that the Board had been informed for, he thought, the first time that investigations happened within the Division and not within the Board and the matrix applied to all boards.

Mr. Rueter asked the MPC to explain the new matrix. She stated that she did not create it, but that the investigation process belongs to the Division, and that there is confusion from many boards about the investigative process. She stated the Investigations Division heard the feedback and created a clearer chart, however the actual process hadn't changed. The MPC stated the third chart was created by the MPC and adopted by the Chief for all boards, and demonstrated where the Board actually made decisions on disciplinary actions. The MPC stated that investigations were a Department and Division process and the Board had little pull, expect the Board could choose how they used a Reviewing Board Member (RBM). She stated that the subcommittee discussed if a RBM could be a member of the Board that would recuse themselves from voting, or would vote regardless, or if it would be someone who wasn't part of the Board.

Captain Antonsen said that Board member could act as a RBM and still vote, and that there are states where Board members are the investigating officers and the entire Board would vote on it since all Board members would have the same information.

Mr. Richmond asked when a case proceeds to an investigation, would the second matrix explain the process of the case? The MPC said yes, and that the second matrix gives more information of what happens to a complaint before it reaches the investigation stage. The MPC stated that one chart was generation one and the second chart was generation two in a way that makes more sense to the Board members and the MPC.

Mr. Richmond said he understood the Board had more pull on a complaint before it went to the investigations process and the Chair asked the MPC if that was correct. The MPC said yes and that determining if a case was jurisdictional and a violation was a conversation between the RBM and the MPC. She stated that if it was decided a case was jurisdictional and there was a violation, the Board would move to the complaint into the investigations phase. The MPC stated that the

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 11**

RBM and the MPC would determine that many cases aren't jurisdictional or a violation and would close them before informing the Board.

Captain Arzt asked what triggering event would start an inquiry or investigation. The Chair stated that he understood a complaint was received and then there was a high level inquiry before moving to the investigation process. The MPC said there were a couple ways that an investigation could get started. She stated that she could receive a written complaint packet or that she could find out information via something like the news. She stated that the MPC may choose to investigate an Incident Report or not.

Captain Arzt stated that he looked over the Incident Report form and that he didn't see a definition of "incident" or "casualty" in the statutes, and that he wanted to see that there was accurate jurisdictional language and vagueness if a form was required.

Captain Antonsen said there was a box for Board Member Review (RBM), and that the Board member would review if a case was jurisdictional or not. Captain Antonsen stated he didn't think it was a lot of guidance. He stated that the MPC could determine if a case was jurisdictional based on the geography or if it involved a marine pilot. Captain Antonsen said that if it was a matter of subject matter; the RBM could come in handy to determine if the case had any substance to allege a violation. He stated the information gathering box on the chart gave a wide range of information that wasn't germane to the Board of Marine Pilots, and that interviews could be information-gathering. He wasn't sure if subpoenas counted towards information-gathering. He stated that having a RBM involved for jurisdiction, information gathering, and substance gathering for a violation could be combined so that the RBM could direct the MPC to gather the information needed for the RBM to determine if there was a violation or not. Captain Antonsen said it wouldn't be considered an investigation but information-gathering. He asked if the Board could be informed of a case had come before a RBM and the RBM and the MPC decided to close it so that both parties would be covered under the umbrella of the Board of Marine Pilots in that the Board agreed with their actions.

Mr. Richmond stated that he thought there shouldn't be much discussion in subject matter jurisdiction. He stated he thought it was an easy decision, and if it were decided there was no jurisdiction, the case is out the window. Captain Antonsen said he agreed, however if it wasn't clear if there was a violation or not, then the RBM could direct the MPC to get more information or save the MPC the effort of gathering the information. Captain Antonsen said that he agreed that determining jurisdiction should be simple most of the time, but he didn't have any training. Mr. Richmond said that jurisdiction was covered within the statutes. Captain Antonsen said he had never heard of three jurisdictional areas (subject

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 12**

matter, geographic, and personal) until he started digging into this process. Mr. Richmond stated that he didn't think the RBM needed to look into the case multiple times. He stated the RBM was like a District Attorney in that he would decide if there was enough evidence to try the case, and that the same District Attorney may be the one that tries the case and wouldn't be disqualified from the case. Mr. Richmond stated that he thought it would be an issue if the Board directed the investigation.

Ms. Marquardt stated that, in most cases, it would be easy to determine jurisdiction, however there could be cases where it would be more difficult, and in that case, what is the process if the MPC and the RBM have conflicting ideas if this needs to be an investigation? Captain Antonsen said he agreed with the question, and wouldn't the public be better served if the Board knew and concurred with the issue? Captain Antonsen said he thought it would be a good check-and-balance for the State of Alaska and the accused. The Chair asked if they were referring to a violation of regulation or statute. Captain Arzt said he remembered from the last Board meeting that Chief Birt said that the RBM would have all the facts but the Board would still have a say in license action when it was presented to the Board and that the RBM may not have to be recused.

Captain Antonsen stated that he agreed with Ms. Marquardt's question about what happened if the RBM and the MPC disagreed on investigation action and shouldn't that go before the Board. She stated that she didn't think it was a difficult issue to fix. She stated that she thought it would be simple for that information to go before the Board. The Chair asked if that would require legal opinions, and Ms. Marquardt stated she thought the Board would have that through the MPC when the case went to the complaint phase. Captain Antonsen asked if there was any reason why the Board couldn't be informed after the RBM and the MPC had determined if there was a violation or not and before the MPC chased down information. Captain Antonsen asked if the Board was covered by insurance and Mr. Richmond stated the Board was not. Ms. Marquardt reiterated that she would like a report to the Board. Captain Arzt stated that he was thrown when Chief Birt informed the Board of the process, but he stated the Marine Pilot Board had always completed investigations differently if it was a vague case and it was unclear if there was, in fact, a violation.

The MPC stated that she was the investigator for the Board of Marine Pilots, and that the process was owned by the Division. She stated she could request the Board be briefed at that point, but there was a legal precedent set for all boards so that boards weren't tainted. She used an example of a pilot that drove too fast through a no-wake zone. She stated that someone could send a complaint through the Board and it may be unclear if there was a violation and so the information would be brought to the Board. She stated the Board could decide there was no violation. However, she stated that if the pilot appeared before the Board again

due to going aground, could the Board be tainted knowing the pilot was once in trouble for a complaint against a no-wake zone even though there was no violation. She stated that the Division and the Department of Law have issues about how much information goes through the Board, and the RBM does represent the Board, and that the RBM and the MPC have to be comfortable going before the Board about the decision they made.

Mr. Richmond asked if an investigator could take action against a medical license without Board action and how that was accomplished. The MPC stated that, in a summary suspension, there is a clear and immediate threat to public safety. She stated that if there was a doctor conducting surgeries while intoxicated, the Division could pull their license since it was an issue of public safety. She stated that if there was a less immediate issue, like record keeping, it could go through the consent agreement route and the Board could choose to accept or reject a consent agreement. Mr. Richmond stated the Medical Board was involved in the process, and the MPC said yes, but that she wasn't sure how the Medical Board conducted RBM. The Chair asked the MPC that if the Board knew a member was under investigation before it may impact them in the future, and the MPC said yes, that was why the information couldn't come before the Board. Captain Antonsen said he didn't have a problem with the investigation process flowchart and where the RBM is involved, but he agreed with Mr. Richmond that subject matter jurisdiction may be fuzzy. He stated that if there's a violation that is referred to a list where the terms aren't properly defined, it would be difficult to determine jurisdiction and it may be better to define it in regulations. He stated he was still unsure why the Board wasn't involved, though he understood there was no insurance. Mr. Richmond stated that the Board was acting on behalf of the State and the State would protect them.

Captain Antonsen said this process more clearly defined the roles of the Board in the investigation process. Mr. Rueter stated that he understood it was the Division's matrix and that the Board could give input and force it through the MPC, but beyond that, the Board needs to be aware of what was found and what was not found. Captain Antonsen asked if they were able to change things. The Chair stated the Board was involved at the end when all information was received. The MPC said that was correct. The Chair stated the Board wanted to be more involved in the actual decision making stage.

Mr. Rueter stated there had been an issue in the past where an investigation had been completed and that a consent agreement had been brought before the Board, and the Board didn't approve the consent agreement. Mr. Rueter stated that this was a loss of time and effort on behalf of the Division in that the consent agreement didn't meet the desires of the Board. The Chair asked if it had to be a Board member and the MPC said it did not, but it had to be a licensed member and could be a retired Board member. Captain Antonsen said that he wasn't

concerned if the RBM was part of the Board or not, but the determination of violation or not was taken to the Board concerned him. Captain Antonsen said that if the Division said no, he understood. Captain Antonsen said he was unclear if the Division really cared about the Board's input. The Chair asked if there any other comments. The MPC stated she would look into the Board's concerns and would report back.

Agenda Item 7

Possible Regulations Project 12 AAC 56.960 Duties of Pilots

Captain Antonsen brought the Board's attention to 12 AAC 56.960(d) Duties of Pilots. Captain Antonsen stated there are many incidents that happen on a cruise ship that may be reported, based on the Coast Guard's minimum reporting requirements for pilots and the VTS system. Captain Antonsen said that there are two levels of reporting, one for engine casualties and one for issues such as collision, allision, hitting a fixed object, etc. Captain Antonsen stated that, in paragraph (d), if a pilot doesn't make a required report, they can be subject to the penalties such as \$15,000.00 fine or prison time. Captain Antonsen stated that his concern was that in the list of reportable actions, there were a few that weren't defined. He stated that "aground" and "collision" was easily defined, however there was no definition for "meets with a casualty" or "is damaged in any way". He stated that there were definitions of marine and maritime casualties in the CFR specify what constitutes a marine casualty; however there are no regulations for the State of Alaska. Captain Antonsen said that "any casualty" was really broad. He stated that the Coast Guard had a list of what the pilot and the captain shall report, but that it was different than what was coming under the jurisdiction under the pilot board. He stated that whatever a pilot was required to report should be under the jurisdiction of the Board of Marine Pilots, and so actions of a pilot and not vessel operations like blackouts and loss of steering should be reported. He stated that the Coast Guard can prevent a vessel from getting underway until the issue is fixed. Captain Antonsen stated that, on one vessel, he had a complete blackout near a glacier. He stated the vessel was at a safe speed and away from the glacier, so they drifted for approximately 10-12 minutes. He stated that it was reported to the Coast Guard. He stated that, in the case of Captain Ward, the vessel had a loss of propulsion, anchors were dropped, and the vessel was safe. No casualties occurred. Captain Antonsen said he saw that there would be no reason to report this to the MPC since the Board did not have any jurisdiction over engine equipment. Captain Antonsen proposed the Board eliminate undefined terms and limit the regulation to a list so it was clear and there was no ambiguity. Captain Antonsen said that, instead of taking the Coast Guard's definition of a casualty of things under their purview, but to use terms that are only under the Board's preview.

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 15**

Captain Arzt stated that he agreed with Captain Antonsen, and read the Coast Guard's definition of a "casualty". Captain Arzt asked if the Board was interested having that information reported to them, and that there was no "incident". Captain Arzt stated that there could be a collision or an allision with something because the pilot's actions, but if that didn't occur, that was information that would be filed on a CG-2692. He stated, as a Board member, he'd like to define it. Mr. Erickson stated that he understood that the ship was responsible to reporting to the Coast Guard during a loss of power situation.

Ms. Marquardt stated she understood the desire for pilots not to be overly concerned in reporting information the MPC, and that when she reads "casualty", she thinks of an event that ends badly, not something that happens while docking or in transit since those things happen all the time. She stated she was trying to understand the language in that it was clear that it was physical damage to the vessel, not just an incident that occurred. She stated that she supported the Board either way if they wanted to update ambiguous language, but if not, she agreed with the Board defining "casualty".

The Chair asked if there were a lot of people reporting casualties when there was nothing to report. Mr. Erickson stated that the Coast Guard required the ship to report information, such as someone slipping in the shower or hurting their finger. He stated the Coast Guard had their guidelines, and that he believed the pilots would check with the Masters that a CG-2692 would be filed. Mr. Erickson said the Board needed to determine what they wanted to have reported. Mr. Erickson stated that if someone required more than a Band-Aid, they encouraged the vessels to file a CG-2692s.

The Chair stated that Black's Law dictionary uses the word "shipwreck". Mr. Richmond stated that Google gave definitions like "misfortune". Mr. Richmond stated that the FAA requires pilots to report anything that happens on the aircraft, regardless of their piloting activities. He stated that the NTSB defines accidents and incidents differently, and he believed the Board should stick with that definition because he thought the citizens of the state and the MPC should know if engines fail, even though it has nothing to do with piloting. He asked if the captains were nervous about being personally responsible for something they didn't report.

Captain Antonsen stated that he did have a problem leaving the regulation as-is because the terms weren't defined. He stated that it was unclear which definition the Board was using, and that the Coast Guard had a specific definition for what needs to be reported to them. He stated that the regulations, definitions, and paragraph (d) do not define "casualty". He stated that he would be guilty of a misdemeanor, fined, and imprisoned for something that isn't defined. He stated that "damaged in any way" is also an issue if a vessel can scrape an iceberg but

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 16**

not impact the safety or navigation of the vessel. He stated the Board needed to have clear language strike it.

Captain Antonsen suggested moving to amend paragraph (d) and striking “meets with any casualty”, but leave “damaged in any way” so the public can give input on “damage on any way” during Public Comment.

Captain Arzt drew the Board’s attention to Captain Ward’s certificate of appreciation from the Coast Guard concerning an engine failure. Captain Arzt asked if the Board wanted to take action on this. Mr. Richmond stated that he looked up the CFR definition and that there is a second definition of “serious marine incident”. He stated that “reduction or loss of vessel’s electric power”. Captain Arzt stated that the Board wasn’t discussing the Coast Guard’s regulation but the State of Alaska’s regulations to vessels conned in State waters, and if he looked at State Incident/Accident report, he saw incidents where pilotage could be a concern. He stated he found the Coast Guard’s definitions too vague for this purpose and did Captain Ward’s incidents fall under the purview of the Board or not. He stated that there were many incidents that fall under the Coast Guard CG-2692 and the Marine Safety Office, and since the terms were undefined, there would be many things he would have to report to the Board, such as pollution incidents that weren’t caused by pilot error. He stated that, because the terms are undefined, it’s unclear what belongs on the form and pilots are subject to fines and legal proceedings.

Mr. Richmond stated that he believed it was a casualty. Captain Arzt said that he agreed it was a casualty under a definition, but did it fell under the purview of the Board of Marine Pilots in that it was a pilot’s action that caused the incident? Captain Arzt described a vessel in San Francisco that lost power, dropped two anchors, drifted, and hit a bridge. He stated that actions were related to the pilot, and if the vessel had stopped 500 yards from the bridge and didn’t hit the bridge, would it be under the Board’s purview to be enforceable.

Captain Antonsen asked the Chair if he’d be interested in hearing public comment. The Chair opened it to public comment.

Captain Pete Garay from SWAPA addressed the Board. He stated from his perspective and from well over 100 pilots, that pilots would feel very strongly about this discussion. He stated that Captain Ward shut down the engine to prevent it from overheating and seizing up, therefore it wasn’t a casualty. He stated it was in direct course to keep the engine from seizing, and once the engine was operating correctly, they returned to the dock. He stated there was more to this situation and that it needed to be released for public comment.

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 17**

Mr. Richmond asked Captain Garay if, under the Coast Guard definition, by shutting the engine down there was a marine casualty. The MPC reminded the Board and the public that the Board would need to go into Executive Session to discuss this situation if it met the criteria of creating “undue prejudice, reputation, and character of any persons”. She stated that if the discussion got too specific on one pilot, it wasn’t fair to him.

The Chair stated the question was if the Board should define “casualty” or strike it from the language.

Motion: Captain Arzt, Captain Antonsen, and possibly Captain Garay present a definition at the next Board meeting.

Moved by: Mr. Richmond

Captain Antonsen stated that he had previously made a motion and it wasn’t recognized. The Chair apologized and allowed him to make his motion:

Motion: Amend 12 AAC 56.090 (d) Duties of Pilots to strike “Meets with any casualty”.

Moved by: Captain Antonsen

Seconded by: Ms. Marquardt

The Chair asked for discussion. Mr. Richmond asked if the Board had the authority to change the regulations right now. Captain Antonsen said no, but it would go out to generate public comment. Captain Antonsen stated that he thought a simple amendment would generate public comment and possibly give a definition or delete further things, such as “damaged in other ways”.

The Chair asked the MPC if the Board was to prepare a draft, and she stated the Board would create language to vote on at the next meeting, the Department of Law would decide if this was a regulation the Board could create, and then the Board would go through the Public Comment section. She stated a draft will come back to the Board, and then it would go out for Public Comment.

Captain Antonsen asked if there is a reason the Board couldn’t come up with a draft right now. Mr. Rueter said the Board demonstrated this with the submission of changing pilot locations, and that it was drafted and presented by a pilot association, the Board reviewed it, adopted the draft, and then had a discussion if it should move forward into the regulation process. He stated the Board had accepted the draft, and after 35 days the Board would have a teleconference to discuss public comment and that this regulation change would fall under the same

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 18**

area. He stated that it would not serve the Board appropriately to use the time now. He stated that he recommended there would be a draft to review.

The Chair asked if other pilot organizations around the U.S. dealt with this issue. Captain Antonsen stated that he thought the conversation was only germane to pilots in this state to give input. Mr. Erickson stated he understood the Coast Guard and CFR had a definition, and that he could only assume that the captain onboard the vessel Captain Ward was piloting had to file a CG-2692. He asked if it made sense for this Board to discuss what a marine casualty is to a pilot.

Captain Arzt stated he disagreed with Mr. Erickson in that he wasn't concerned in what the Coast Guard required, and that he thought "damaged in any way" should be removed as well, in that a crane with a topping lift could damage cargo and that would have nothing to do with pilot actions. He asked if the Board wanted reports for those types of things, and he thought not. He thought the Board would be most interested in what a grounding, stranding, collision, and an allision with another vessel. He stated the Coast Guard's requirement and enforcement of the CG-2692 wasn't germane to the conversation.

Mr. Erickson said he understood the pilot wasn't responsible for the form but the ship was. Captain Arzt stated he didn't want that information to come before the Board because it wasn't the pilot's actions.

The Chair asked Captain Arzt if he'd like to use the definition on the form. Captain Arzt said he'd like to qualify paragraph (d) to be more homogeneous with the form, and that there is ambiguity in the language, and asked if the Board or the MPC would like the pilots to file a form documenting what happened with Captain Ward's incident. Mr. Rueter asked what obligations pilots had to fill out the CG-2692. Captain Antonsen said that there is a communication from the Coast Guard with minimum reporting requirements to the Coast Guard, and gives very specific language for what the pilot should report. Captain Antonsen stated that the Coast Guard said that even if the ship reported something, the pilot was still responsible for reporting it. He stated that the company must report something, but the pilot may have to. He stated that it is the Coast Guard's definition of "marine casualty", which is different than "casualty" and a "serious marine incident". Mr. Erickson said he agreed, and there was a mechanism in place for ship's to file with the Coast Guard.

Captain Antonsen asked the Chair, with the MPC's input, if it would be better to solicit a draft. Captain Antonsen stated that his motion was withdrawn.

Ms. Marquardt asked if there is a list of what a marine casualty is, and she asked Captain Arzt if that was the list he wanted to use. He stated that he did not in that

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
APRIL 16, 2015
PAGE 19**

it didn't relate to the safe conning of the vessel. The Chair stated that more research was needed.

Captain Arzt stated that more clarification was needed on the roll the Board of Marine Pilots have on a vessel and what role the Coast Guard has. He stated that the FAA covered both bodies. He stated the actions of pilots were falling into multiple categories that he didn't believe should fit.

The Chair asked if the motion should be to work between now and the next meeting to work on some language. The Chair asked if Captain Arzt and Captain Antonsen would be comfortable working together.

Motion: Captain Arzt, Captain Antonsen, and Mr. Erickson will develop a draft for the next meeting to be presented to the Board 60 days before the next Board meeting.

Move: Captain Antonsen
Second: Ms. Marquardt.

Captain Arzt stated that the subcommittee would be discussing engine and gyro failures, issues that were required to be reported to the Coast Guard, and that the list would be provided through the Marine Pilot Coordinator.

The Chair asked for further questions. There were none. The motion PASSED unanimously:

Agenda Item 8

Next Meeting

The MPC stated that the Captain Cook was already reserved on October 27. The MPC asked the Chair if the Board would rather have the meeting in the Atwood Building in that the building was free and the Captain Cook. The MPC estimated the Captain Cook cost a few hundred dollars. The Board decided to say with the Captain Cook. October 29 was tentatively planned with the dates to be firmed up after late April.

The Chair asked for any upcoming agenda items. Ms. Marquardt asked what the procedure was for setting agenda items. The MPC stated she'd like to get her packets out a week early, and the Chair asked if the Board could provide agenda items. Mr. Rueter commended the MPC on her efforts to get packets out early. She requested the MPC to email the Board a month before to remind them.

At 3:15 pm, the Board entered Executive Session under AS 44.62.310 Open Meetings Act for the purpose of subject's undue prejudice, reputation, and character of any persons provided the person may request a public discussion.

Agenda Item 9 **Executive Session**

The Board came out Executive Session at 3:37 pm.

On the motion by Captain Antonsen, seconded by Captain Arzt, and carried without dissent, the Board RESOLVED to adjourn at 3:37 pm.

Respectfully submitted:

Crystal Dooley

Marine Pilot Coordinator

Chris Hladick

Chairman

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF MARINE PILOTS**

DRAFT MINUTES OF MEETING

May 28, 2015

**Teleconference originating at the State Office Building
333 Willoughby Avenue
9th Floor Conference Room A-South
Juneau, Alaska**

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

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a special meeting of the Alaska Board of Marine Pilots was held on May 28, 2015 in via teleconference.

May 28, 2015

Call to Order/Roll Call

The meeting was called to order at 10:12 AM by Chairman Chris Hladick. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Hans Antonsen	- Pilot Member
David Arzt	- Pilot Member
Richard Erickson	- Agent Member
Robert Richmond	- Public Member
Tom Rueter	- Agent Member
Shirley Marquardt	- Public Member (joined at 10:15)
Chris Hladick, Chair	- Commissioner's Designee

Staff present:

Crystal Dooley Marine Pilot Coordinator (MPC)

There were two public subscribers to the teleconference: Captain Ed Sinclair, the president of SEAPA and Captain Richard Gurry, from SEAPA.

Agenda Item 1 Review and Set Agenda

Hearing no objections to the set agenda, it was:

RESOLVED to approve the agenda.

Agenda Item 2 **Review/Approve Minutes**

On review of the April 16, 2015 meeting minutes, there were no objections to the content or convey of Board minutes.

Motion: Approve April 16, 2015 minutes

Moved by: Mr. Richmond

Seconded by: Mr. Rueter

Board APPROVED the Minutes unanimously.

Agenda Item 3 **Public Comment concerning change to 12 AAC 56.120 Pilot Stations or Pickups**

The MPC stated the Board had received no written public comment and asked if Captain Sinclair would be interested in public comment. Captain Sinclair stated that he did not have any comments. The Chair asked the MPC if the Board had fulfilled their Public Comment requirement and asked if the Board could vote on the regulations. The MPC stated that he was correct, and then the regulation change would move through the process.

Motion: Accept changes to regulation 12 AAC 56.120 Pilot Stations or Pickups

Moved by: Mr. Richmond

Seconded by: Captain Arzt.

The Chair asked for a roll-call vote.

Hans Antonsen	Yes
David Arzt	Yes
Richard Erickson	Yes
Robert Richmond	Yes
Tom Rueter	Yes
Shirley Marquardt	Yes
Chris Hladick, Chair	Yes

The motion passed.

**ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
May 28, 2015
PAGE 3**

Agenda Item 4 Next Meeting

The MPC stated she had heard from a pilot organization and from a pilot member concerning an issue bubbling where a pilot member had been expelled from a pilot organization and requested guidance from the Board. She stated that the pilot and pilot organization requested the Board address the issue between the dates of July 20 – July 24. The MPC requested the Board members look at their schedule to see if those dates would work.

The Board tentatively agreed to July 20 with the understanding that more information is coming.

On a motion by Mr. Rueter, seconded by Ms. Marquardt, and carried without dissent, the Board RESOLVED to adjourn at 10:22 AM.

Respectfully submitted:

Crystal Dooley

Marine Pilot Coordinator

Chris Hladick
Chairman



Foreign Pleasure Craft Cruise Season Report

DATE: October 27, 2015
TO: Alaska Board of Marine Pilots
FROM: Crystal Dooley, Marine Pilot Coordinator

PURPOSE

The purpose of this report is to provide an overview of the seasonal volume of foreign-flagged pleasure craft transiting the compulsory pilotage waters of the state in order to:

- assess regional recreational yachting traffic;
- analyze inter-regional trends in the foreign-flagged yachting community;
- evaluate the effectiveness of the pilotage exemption application process in terms of timeliness and responsiveness; and,
- identify developing trends in the foreign-flagged yachting community

This report provides a summary of foreign pleasure craft (FPC) activity during the previous ten cruise seasons. The summer cruising season in Alaska is defined as April through September.

The data for this report is compiled from records maintained by the MPC. As such, documented activity includes foreign-flagged yachts that applied for a pilotage exemption in accordance with Alaska Sec 08.62.180 Exemptions.

PROCESS: FPC ACTIVITY PER CRUISE SEASON

Beginning in 2006, the MPC began keeping metrics for the FPC Program. Metrics are tracked per fiscal year. A fiscal year ends on June 30 and begins on July 1; therefore one calendar summer may be divided into two fiscal years. The FPC Program's policies, procedures and fees have remained relatively consistent since 2006. Exemptions for pilotage expire one year after they are granted, and FPC's must apply for a new license every summer. There is no renewal program at this time.

The following table, FY 2015 Foreign Pleasure Craft, gives the vessel names and license numbers, expiration dates, official numbers, Length Overall (LOA), country of registry, areas to transit, the total amount paid, and if a Certificate of Financial Responsibility (COFR) was required for the vessel. All exemptions expire one year after they are granted.

FY 2015 Foreign Pleasure Craft

E#	Expires	Vessel Name	O. N.	LOA (ft)	Registry	area(s) to transit	Total Paid	COFR required	
185	24-Jul-15	EL MIRAR II	744120	97	BVI	SEAK	\$ 1,850.00	From Summer 2014	
188	18-Aug-15	LATITUDE	740026	127	Cayman Islands	Nome, Dutch, Kodiak	\$ 3,300.00		
187	11-Aug-15	KAORI	71002	110	Marshall Islands	SEAK	\$ 3,250.00		
186	5-Aug-15	DESTINATION	735475	123	Cayman Islands	SEAK	\$ 3,100.00		
								Summer 2015	
189	20-Feb-16	MERIDIAN	743723	172	British	SEAK	\$ 5,550.00	X	
190	25-Mar-16	CAROLINA	730306	134	Cayman Islands	SEAK/YAK	\$ 3,700.00		
191	26-Mar-16	REST ASSURED	745105	75	Cayman Islands	SEAK	\$ 750.00		
192	06-Apr-16	AURORA 2013	837538	105	Canada	SEAK	\$ 2,200.00	X	
193	20-Apr-16	ATLANTIC	740886	146	British	SEAK	\$ 4,250.00		
194	21-Apr-16	MY SECRET	740886	133	British	SEAK	\$ 3,650.00	X	
1	22-Apr-16	ICE BEAR	732372	171	British	SEAK	\$ 5,550.00		
195	7-May-16	TOROA	743878	67	British	SEAK	\$ 300.00		
50	7-May-16	EVVIVA		144	British	All Alaska	\$ 4,250.00	X	
196	11-May-16	MI TAI TAI	825675	75	Canada	SEAK	\$ 750.00		
197	15-May-16	BE MINE	13206	117	Malta	SEAK	\$ 2,850.00		
198	27-May-16	ENDEAVOR	74516	116	British	SEAK	\$ 3,500.00		
199	27-May-16	RASA	733938	116	British	SEAK	\$ 2,800.00		
200	28-May-16	KYA	70980	68	Marshall Islands	SEAK, Yak, Icy Bay, PWS	\$ 550.00		
201	29-May-16	SWEET HOPE 2	920305	76	British	SEAK, Yak, Icy Bay	\$ 800.00		
202	29-May-16	IMAGINE D	743091	133	BVI	SEAK	\$ 3,650.00		
100068	30-May-16	SOUTHERN WAY	738488	102	British	SEAK	\$ 2,050.00		
100160	5-Jun-16	BLACK PEARL	740797	77	Cayman Islands	SEAK	\$ 850.00		
100374	15-Jun-16	CALL OF NORTH	23873	67	German	SEAK	\$ 400.00		
100436	16-Jun-16	MI AMERE	826469	77	Canada	SEAK	\$ 850.00		
100636	19-Jun-16	ALDILA	837119	77	Canada	SEAK	\$ 850.00		
100986	26-Jun-16	MY SKY	746123	168	Cayman Islands	SEAK	\$ 5,350.00	X	
100986	30-Jun-16	CHRISTOPHER	742974	150	Cayman Islands	All Alaska	\$ 3,650.00		
Average LOA:							111.962963	Total: \$70,600.00	5

The following table, Fiscal Year Cruise Season vs. Regions, describes the number of exemptions granted by the Board per cruise season; the total number of inter-regional FPCs, and the corresponding break-down of single-region FPC cruises:

Fiscal Year Cruise Season vs. Regions

FY Cruise Season	Number of Exemptions	Inter-Regional	Region I only	Region II only	Region III only
2006	18	4	16	1	1
2007	20	5	19	0	1
2008	35	6	32	1	1
2009	19	6	17	0	1
2010	24	4	25	1	1
2011	19	7	13	1	0
2012	25	9	16	0	2
2013	17	9	8	0	0
2014	15	8	6	0	1
2015	23	2	21	0	0

The following table, Yachts by Fiscal Year, demonstrates the number of exemptions, the average LOA, and the revenue generated.

Fiscal Year	Exemptions Granted	Average LOA (ft)	Revenue Generated
2006	18	142	\$ 45,300.00
2007	20	120	\$ 21,100.00
2008	35	120	\$ 102,050.00
2009	19	128	\$ 71,750.00
2010	24	128	\$ 78,050.00
2011	19	140	\$ 87,950.00
2012	25	128.27	\$ 75,650.00
2013	17	130.6	\$ 57,250.00
2014	15	124.56	\$ 47,500.00
2015	23	112	\$ 70,600.00

ANALYSIS

The MPC does not track FPCs that are not eligible for pilotage exemptions due to the LOA of the vessel. Therefore, the MPC has no data on the increase or decrease of traffic outside of pilotage exemption parameters. Based on the data presented above, the following generalizations are valid:

- It is difficult to determine a trend in FPC traffic. It is unclear why FY 2008, FY 2010, FY 2012, and FY 2015 had a greater number of exemptions than other years.
- There has been an incremental increase in the number of FPCs with inter-regional itineraries;
- Southeast Alaska has consistently been the primary or sole destination throughout the seven year study. The obvious assumption is Region I proximity from major port facilities to the south in British Columbia and Washington.

DATA INTERNALS

Analysis of the data internals draws other significant factual considerations:

- The total number of exemptions granted since 2006 is 209; however, only two vessels previously issued exemptions visited Alaska in FY 2015. Therefore, the majority of vessels visiting Alaska in FY 2015 were vessels visiting Alaska for the first time.
- Southeast Alaska is the primary cruising destination.

- The majority of applications for pilotage exemptions are granted in the month of May. Applications processed prior to May are generally for returning FPCs or the larger foreign yachts that might also have to apply for a COFR.
- Vessels in the <100' LOA range are generally owner/operator and generally indicated Region I as their intended itinerary.

OPINIONS

The following are based on factual circumstances that, when taken together, do not have the conviction of analysis; however, they do provide interpretative speculation that support recommendations.

- Most of the applications processed in 2015 fiscal year cruise season cited an anticipated arrival date < 30 days from the time the application was received and processed by the MPC. This is contrary to statute and indicative that these applicants may not be aware of Alaska's pilotage requirements and applying for an exemption is an afterthought.
- Similarly, seventeen of these applicants had vessels that were <125' LOA, which does not require mandatory employment of a pilot upon entry into compulsory waters to first port call.
- When compared to previous fiscal years, FY 2015 observed an average LOA of 112-ft (see Yachts by Fiscal Year table). While 23 pilotage exemptions were granted, a decrease in average LOA demonstrates that the vessels, on average, were shorter than vessels in previous years.
- The MPC speculates that the decrease in the price of oil and the price of fuel allowed for smaller, family-owned vessels to afford a cruise in Alaska. In addition, the larger vessels that normally return to Alaska may have opted for a further cruise for the same reasons.
- The MPC created a smart-phone friendly version of the pilotage exemption checklist and noticed that Board members responded with their vote faster than when the checklist was attached as a PDF.
- The MPC emailed a weekly "Yacht Roundup" to agents, pilot organization presidents, and interested parties during the cruise season. This gave all stakeholders a weekly snapshot of which vessels were granted exemptions, which vessels were pending, their cruising plan, and what exemption criteria was missing.
- The MPC received training from the Department of Environmental Conservation (DEC) in looking up which vessels had been granted Federal or State COFRs.
- Pilot organizations should receive training before cruise season in how to lodge a formal complaint with the FPC if they believe a vessel is not complying with the statutes and regulations governing FPC exemptions.

SIGNIFICANT EVENTS:

- The MPC received four complaints, one of which addressed the LOA of the vessel.

RECOMMENDATIONS:

The following recommendations are presented for the Board's consideration:

- Inclusion of a survey questionnaire with the pilotage exemption sent to the successful applicant. The goal of the survey is create dialogue between the FPC and the MPC to improve the pilotage exemption program.
- Review the FPC application process in light of the preponderance of applicants that submit for a pilotage exemption inside the statutory 30 day window. In general, the applicant makes contact with the vessel agent and the process is initiated when the vessel agent contacts the MPC.
- Conduct training with vessel agents to streamline the process.
- Compile and maintain a renewal list for likely returning FPCs and disseminate the FPC pilotage exemption application in early spring. These mail-outs will serve as reminders to likely returning vessels, and may even entice prospective returnees to commit to the upcoming cruise season in Alaska.
- This report should be available online for stakeholder input.

ALASKA



STEAMSHIP
ASSOCIATION

217 SECOND ST
SUITE 202
JUNEAU, AK 99801

PHONE: (907) 586-3747
CELL: (907) 242-3704

October 15, 2015

Commissioner Chris Hladick
Chair, Alaska Board of Marine Pilots
PO Box 110800
Juneau, AK 99811-0800

Dear Commissioner Hladick:

I am very concerned with how the State of Alaska is interpreting 12 AAC 56.115, regarding pleasure craft exemptions in the pilotage regulations. A series of unfortunate events this summer has, in my opinion led to a decision which I believe is contrary to the regulations and the intent of both pilots and industry when those regulations were adopted. I am also concerned the events surrounding this decision and a particular vessel's treatment this summer not only reflect poorly on Alaska's business climate but may lead to a loss of economic opportunities for our state and local businesses.

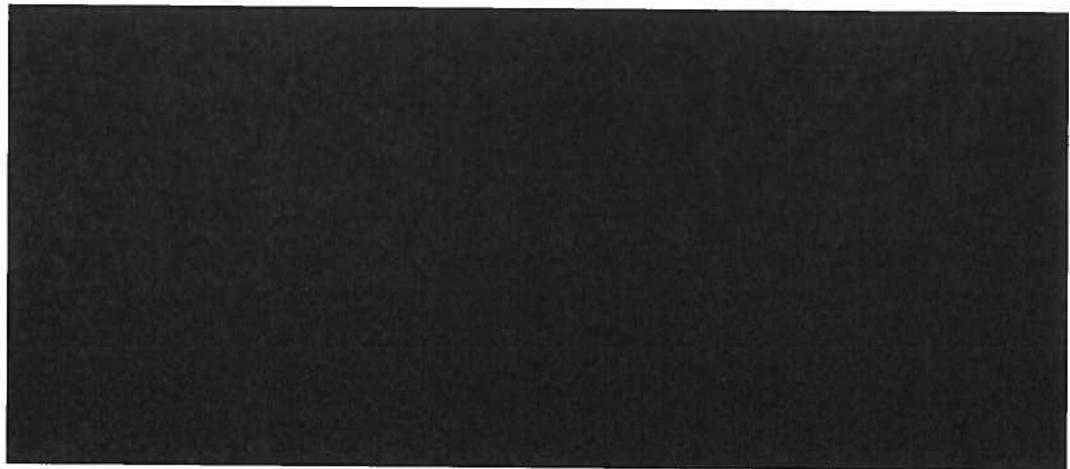
On February 16, 2012, the Alaska Board of Marine pilots voted to approve a proposed regulation to 12 AAC 56.115(a)(4). The regulation directs the Marine Pilot Coordinator to use a vessel's registry to determine the vessel's length overall (LOA). The reference relates to the calculation of fees, however, it was clear at the meeting that both the industry and the pilots understood the change to direct how the State determined LOA as it applied to the exemption, not just the fees.

If you listen to the testimony, the issue being addressed was ensuring vessels are reporting their registered length, not something less in an attempt to seek a pilotage exemption. Pilot testimony at the hearing stated they did not want a number of vessels all claiming their length was 174 feet to obtain an exemption. The same testimony also verified that using the registry to determine LOA was the way it was always intended to be. It is also important to note that earlier in the testimony, Director Don Habeger introduced the proposed regulation changes as a "proactive support to Alaska's entrepreneurs and small business owners.

The State's recent position is now requiring the application of two different standards for determining LOA. One for the exemption and one for the fees. That simply makes no sense. For over three years, the system has worked well, avoided

confusion, provided the State with written evidence of length before the vessel even enters Alaska waters, and was based upon an objective process.

I see no conflicting regulation which would prohibit the use of the registry to determine LOA for all aspects of the pilotage exemption. Even if the State felt the regulation was not clear enough, where is the compelling argument which would precipitate action to completely reverse the practice of the last three to four years? Why would the State want to go back to the system of having staff wait at the dock with a tape measure? It introduces confusion, uncertainty, and is not consistent with the government streamlining, efficiency and pro-business approach the 2012 regulation intended to achieve.



The large yacht community, although global, is a relatively small community. There is no question, a bad experience by one vessel becomes known within the community and can have significant economic impacts upon our state. I request your assistance in returning the regulation to its intended interpretation and in doing so, sending a clear message Alaska does want the business. With the State's fiscal outlook, we need the local jobs and economic development more than ever.

Thank you for your attention to this matter.

Sincerely,

Handwritten signature of Mike Tibbles.

Mike Tibbles

Executive Director

Alaska Steamship Association



SouthEast Alaska Pilots' Association

1621 Tongass Avenue, Suite 300 • Ketchikan, Alaska 99901 • 907-225-9696 • fax 907-247-9696

Capt. Ed Sinclair, President
Capt. Paul Merrill, Vice
President

September 3, 2015

Via email (chris.hladick@alaska.gov)

Chairman Chris Hladick
Alaska Board of Marine Pilots
PO Box 110806
Juneau, AK 99811-0806

Dear Chairman Hladick:

I request that the Board of Marine Pilots review the pilotage exemption process for yachts. I also request that this letter be put in the record of correspondence received by the BMP, and that the BMP take this matter up at its next meeting.

[REDACTED]

Alaska statutes and regulations allow certain kinds of vessels to obtain an exemption from marine pilotage requirements (AS 08.62.180 and 12 AAC 56.115). Relevant portions of this statute and this regulation are set forth at the end of this letter.

[REDACTED]

In examining the superseded pilot exemption request form dated 6/16/2011 that the BMP prepared (enclosed), the State defined overall length. This definition of overall length was removed from the BMP's current exemption request form dated 5/29/14 and replaced with a length overall defined as the length indicated on the vessel's certificate of registry. A copy of this form is also enclosed. It is our understanding that the form was changed by the BMP without any notice to SEAPA or any marine pilot. We also understand that no one with the BMP notified SEAPA that this change to the exemption form was going to occur or was even being contemplated. SEAPA was not given the opportunity to review and comment on the BMP's change to its operating procedures or requirements for

[REDACTED]

exempting vessels from the requirements of the marine pilot laws. If there was any sort of process engaged in by the BMP that led to the changes to the exemption application, we are not aware of it. If there was, please let me know when it occurred and what process the BMP engaged in when it revised its exemption application so that our membership can be fully informed.

We also understand that the former BMP Chair directed the Marine Pilot Coordinator **not** to attempt to verify yacht information when they received a yacht's marine pilot exemption application. If that is accurate, that directive seems to have been directly opposite of the State's interests, and place the economic interests of the yacht over the state's interests in protecting shipping, the marine environment, and the safety of human life and property.

This directive, if accurate is misguided because any exemption application submitted to the BMP, should be validated. When information on an exemption application, such as length, is very close to the threshold used in determining whether an exemption can be granted, this validation is particularly important.

We also have concerns about the credentials and qualifications of the master/operators and officers of yachts that either seek, or have been granted, an exemption from marine pilotage requirements. There do not appear to be any provisions for setting forth the experience of anyone on a vessel seeking an exemption other than those on board the vessel at the time it submits an application to the BMP. On some vessels, the master/officers are relieved by their "opposite" during the course of the yacht's visit to Alaska. It would be prudent for any vessel that submits an exemption application to include the same credentials for all masters/officers expected to be operating the vessel while in Alaska's waters, not just a select few.

Another concern we have is that vessels that have been granted a marine pilot exemption by the BMP are only required to employ a marine pilot for their initial entry into Alaska waters. During this entry, the marine pilot provides general guidelines for the vessel's operations within the region, but that same pilot is not qualified to make any comment on the vessel's operations outside the pilotage region for which the marine pilot is licensed. It seems both reasonable and prudent to require a vessel operating with a marine pilot exemption from the BMP to take a marine pilot upon its initial entry into each pilotage region for which that vessel has been granted an exemption.

This summer, there were two situations we are aware of that occurred involving yachts that obtained marine pilot exemptions from the BMP that underscore the concerns we discuss in this letter.

[REDACTED]

[REDACTED] It seems inconsistent to allow a vessel involved in a marine-related accident to be exempt from reporting that accident to the state, and it is the opposite of what the law requires marine

Chairman Chris Hladick
September 3, 2015
Page 3

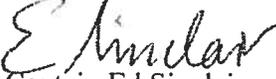
pilots to do if they had been on board: reporting an accident to the BMP and Coast Guard. Instead, if any vessel is granted a marine pilot exemption, that same vessel should still be required to report any accidents occurring in state waters to the BMP.

[REDACTED]

SEAPA has always been, and is ready now, to assist the BMP and Yacht Committee conduct a complete review of the exemption process. Our interest is ensuring the State has a defined process that is consistently applied to all vessels seeking an exemption from the law so that the BMP meets the State's interests.

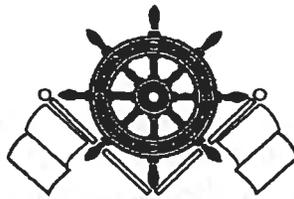
Please don't hesitate to contact me if you have any questions.

Sincerely,



Captain Ed Sinclair
President
Southeast Alaska Pilots' Association

Enclosures



ALASKA MARINE PILOTS LLC

P.O. Box 920226 - Dutch Harbor, AK 99692
Office (907)581-1240 - Fax (907)581-1372
www.alaskamarinepilots.com

MAR
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Juneau

OCT 05 2015

To be good Stewards over the waters which we are licensed to protect

CBPL

October 1, 2015

Re: Alaska Marine Pilots LLC - 2016 Pilotage Rate Revision

**NOTICE OF INTENT TO ADOPT
REVISED RATES FOR PILOTAGE SERVICES**

Crystal
Registered Agent:

Alaska Marine Pilots, LLC (AMP) is providing notice to the Board of Marine Pilots (BOMP) that the AMP intends to revise its rates for the provision of pilotage services in Region Three effective January 1, 2016.

A copy of the revised rates for pilotage services is enclosed per AS 08.62.046 (b). The revised rates will be published in the Nome Nugget. A copy of this letter and the revised rates is being sent to the Board of Marine Pilots and to agents registered with the BOMP this date per AS 08.62.46 and Regulation 12 ACC 56.250.

The mailing address for the Alaska Marine Pilots, LLC is P.O. Box 920226, Dutch Harbor, Alaska 99692.

Sincerely,

Captain Rick Entenmann, President

Alaska Marine Pilots, LLC

Enclosure

Cc: All Registered Agents (w/Enclosure)

**Notice of Intent to Adopt
Revised Rates for Pilotage Services
Western Alaska, Region Three
AS PER AS 08.62.046**

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Alaska Marine Pilots, LLC ("AMP"), hereby publishes the following rate for the Western Region Effective January 1, 2016.

- 1) (a) All rates herein are in U.S. Dollars.
- (b) Port Charges: The minimum charge for moving a vessel one way to/from a pilot station shall be as follows:
 - I) Dutch Harbor, Unalaska Bay, Iliuliuk Harbor, Captains Bay \$2,449.13
 - II) Industrial Outports: Adak, Barrow, Balboa Bay, Cold Bay, Kivalina, Kotzebue, Nome, Port Clarence \$2,417.77
 - III) Fishing Outports: Akutan, Atka, Chignik, Clarks Point, False Pass, Naknek, Norton Sound, Port Moller, Sand Point, St. Paul, Togiak \$2,197.96
 - IV) Unlisted Outports \$2,197.96
- (c) Inner Harbor Charges: The minimum charge for moving a vessel from alongside a dock to harbor or harbor anchorage, from harbor anchorage to dock, or from anchorage within a harbor to another anchorage within the same harbor shall be as follows:
 - I) Dutch Harbor/Captains Bay \$1,542.95
 - II) Industrial Outports \$1,523.19
 - III) Fishing Outports \$1,384.72
 - IV) Unlisted Outports \$1,384.72
- (d) The charge for moving a vessel when alongside a dock to position tanks, cargo holds, manifolds, loading arms, hoses, container cranes, or when changing lines or position on a mooring buoy shall be charged at the rates listed in (c) I, II, III, and IV.
- (e) The charge for an alongside to alongside (double shift) shall be charged at twice the minimum rates listed in 1 (c).

(f) An additional tonnage surcharge shall be charged per movement for a vessel with tonnage in excess of 14,000 gross tons. The tonnage surcharge per gross ton shall be as follows:

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- I) Gross tonnage less than 14,000 \$0.00
- II) Gross tonnage between 14,000 and 50,000 \$0.0545 per ton
- III) Gross tonnage greater than 50,000 an additional \$0.0804 per ton

(g) In addition to charges for vessel movements established in this section a surcharge based on vessel length will be charged. The surcharge is a percentage of the total pilotage charges assessed in sections 1 (b) (c) (d) (e) and (f):

<u>Vessel Length Overall</u>	<u>Surcharge</u>
Less than 450 ft	0 percent
450 ft and less than 500 ft	5 percent
500 ft and less than 550 ft	15 percent
550 ft and less than 600 ft	25 percent
600 ft and greater	40 percent

- 2) (a) All applicable charges in this section shall be assessed whether piloting is to/from sea, or to/from pilot boarding or disembarking point.
- (b) The charge for standing by to pilot while in ports or while onboard ships, or traveling to/from ports that are listed in paragraph 1 (b) subsections (II) (III) and (IV) shall be charged at \$206.25 per hour, accumulating up to a maximum of 12 hours per day. These charges shall be in combination of services rendered.
- (c) A pilot transiting to/from, or standing by in an Unlisted Port that is west of Cape Cheerful or north of the Bering Straits shall charge a minimum of \$3,396.24 per day in combination of services rendered.
- (d) The minimum charge for cruise ships and non-commercial yachts requesting a riding pilot, while aboard or traveling to/from, for all services rendered (standing by or piloting) is \$3,833.73 per day.
- (e) The pilot shall charge the actual cost for travel expenses including pilot boat fares, plane and ferry fares, cab fares, internet access, telephone calls, and all other expenses pertaining to vessel's business, plus per diem allowed for tax purposes by the United States Internal Revenue Service for meals for the current year. Costs for meals shall be charged at the daily allowance as provided by the United States Internal Revenue Service when a pilot is on a ship. Lodging shall be charged at the greater of actual costs of lodging or the daily allowance for lodging allowed by the United States Internal Revenue Service in the region. If adequate lodging is not furnished to the pilot while aboard a vessel, an additional charge shall be assessed by the pilot for lodging as allowed by the United States Internal Revenue Service. An administrative charge of 10% shall be added to the actual costs of plane, ferry and pilot boat fares as evidenced by invoices. Move charges for Dutch Harbor/Captains

Bay include travel/living expenses unless a pilot is flown in specifically to take a vessel to an outport. Vessel movements in Dutch Harbor/Captains Bay will be exempt from any charges related to lodging, per diem or standby except as provided in Section 2 (f).

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- (f) For the purpose of this section, travel, standby, and workdays begin and end at midnight. Each charge accruing at any point within a midnight-to-midnight time period shall be assessed. The pilot will begin charging standby and actual expenses once he becomes available for dispatch upon departure of the pilot dispatch station (Anchorage or Dutch Harbor), and continues till the pilot returns to the starting point of the pilot dispatch station. Standby/travel time is included in the rate listed for Port Charges and Inner Harbor Charges in Dutch Harbor/Captains Bay area, unless the pilot is onboard a vessel for more than two (2) hours.
- (g) The charge for watch time on the bridge rendered by the pilot, at the master's request or as required by statute, while the vessel is anchored, moored, or underway shall be \$206.25 per hour. An overtime rate of time and a half shall be charged when a pilot exceeds eight (8) hours.
- (h) The charge for the movement of a vessel in the absence of the vessels own propulsion system, even if assisted by tugboats, shall be twice the charge otherwise provided for under this published rate for each such movement.
- (i) The charge for a pilot being carried to sea onboard and detained shall be charged at \$206.25 per hour, accumulating up to a maximum of 12 hours per day. If the pilot disembarks at a location other than the pilot station from which the pilot was dispatched, the pilot shall also charge the actual costs for travel expenses occurred returning to point of dispatch. Any required international travel will be at business class rates.
- (j) The charge for a second pilot, when used, shall be 100 percent of the applicable charge for the first pilot. All other applicable charges under this section shall be assessed. The expenses of the second pilot shall be charged to the same extent as the expenses of the first pilot.
- (k) If a vessel is found to have unacceptable living conditions or found to be unseaworthy, the pilot may refuse the service of a riding pilot.
- (l) After two (2) weeks of duty in an outport, a pilot may be rotated out of the port and a pilot brought in to replace him. The expenses incurred shall be charged to the vessel which service has been provided.

(m) Changes/Cancellations/Delays:

I) In Dutch Harbor/Captains Bay area, when the agent, owner, or master of a vessel sets the time of movement, and the pilot reports for duty, the charge for any delay exceeding one (1) hour from the time set shall be \$206.25 per hour. The charge for retaining a pilot onboard a vessel, exceeding one (1) hour from first line, shall be charged at a rate of \$206.25 per hour.

II) Except in Dutch Harbor/Captains Bay areas or when a pilot is standing by in accordance with 2 (b), when the agent, owner, or master of a vessel sets the time of movement in accordance with 12 AAC 56.205 (b) and (d), the charge for any change from the time set shall be \$206.25 per hour, accumulating up to a maximum of 12 hours per day, plus any expenses incurred in attempting to provide service to the vessel. AMP reserves the right to charge for cancellations of dispatch requests within 24 hours of the scheduled departure from the pilot dispatch station. Such charges shall be \$2,475.00 plus any expenses incurred in attempting to provide service to the vessel.

(n) A T&S surcharge of \$93.19 will be added to the basic pilotage fee for each vessel movement performed under these published rates in order to fund AMP's Training and Safety program. For vessels subject in paragraph (2) (d), a single T&S surcharge of \$93.19 shall be charged for each dispatch.

(o) Payment for pilot rates and charges are due upon receipt. An interest charge at the legal rate of interest set forth in AS 45.010 will be charged from the initial date of billing on all invoices unpaid after 30 days of invoice date.

**Alaska Marine Pilots, LLC
P.O. Box 920226
Dutch Harbor, AK 99692**

NOTHING FOLLOWS

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Alaska Marine Pilots LLC
P.O. Box 920226
Nutch Harbor, AK 99692



P

US POSTAGE PAID
\$6.00

Origin: 99603
Destination: 99611
0 Lb 1.10 Oz
Oct 02, 15
0203260824-11

1006

PRIORITY MAIL

Expected Delivery Day: 10/05/2015

*Ms. CRYSTAL DOOLEY
Marine Pilot Coordinator
P.O. Box 110806
Juneau, AK 99811-0806*

USPS TRACKING NUMBER



9505 5103 7023 5275 1146 85



SouthEast Alaska Pilots' Association

1621 Tongass Avenue, Suite 300 • Ketchikan, Alaska 99901 • 907-225-9696 • fax 907-247-9696 • pilots@seapa.com

Capt. Paul Merrill, President
Capt. Ed Sinclair, Vice President

September 23, 2015
Via email
crystal.dooley@alaska.gov

Ms. Crystal Dooley
Marine Pilot Coordinator
State of Alaska
Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
333 Willoughby Ave, 9th Floor
Juneau, Alaska 99801

Re: Bieli Rocks Trial Pilot Station

The initial thoughts are positive that Bieli Rocks Trial Pilot Station affords for safe and efficient pilot transfers for vessels calling at the Old Sitka Dock facility. During inclement weather, there is sufficient sea room for vessels to maneuver to create a safe situation without undue risk to navigation safety.

We request that Bieli Rocks remain a trial pilot station for at least one more year. With the limited number of pilot transfers occurring in Sitka, it would be prudent to continue this station on a trial basis until more transfers have occurred.

If approved, a follow-up evaluation of the station will occur in September 2016.

Sincerely,

Paul F. Merrill

Captain Paul F. Merrill
President
Southeast Alaska Pilots' Association



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF MARINE PILOTS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.2548
Fax: 907.465.2974

September 25, 2015

Captain Ed Sinclair, President
Southeast Alaska Pilots' Association
1621 Tongass Ave, Suite 300
Ketchikan, AK 99901

Dear President Sinclair:

Thank you very much for your letter dated September 03, 2015. Your letter mentioned two specific yachts that may be under investigation by the Marine Pilot Coordinator (MPC). I cannot discuss pending matters until cases are formally closed.

The MPC is responsible for interpreting and enforcing the statutes and regulations of the Board of Marine Pilots, as well as the Centralized Licensing statutes and regulations. The Board has created regulation 12 AAC 56.115 Pleasure Craft Exemptions to clarify statutes Sec. 08.62.180 Exemptions. Centralized Licensing regulations Sec. 08.01.050 Administrative Duties of the Department (a)(3) state: "The department shall perform the following [...] issue and receive application forms." Therefore, the MPC, under the direction of the Division and not the Board, creates the pilotage exemption application. She does route the form through the Board of Marine Pilots for feedback. By statute and regulation, the Division is not obligated to provide drafts of the form to pilot organizations for approval.

The MPC cannot request information on the application that does not serve a business purpose or isn't specifically required in statutes and regulations. The MPC cannot check professional publications and vessel databases unless there is a regulation directing her to do so. No regulation defining length overall exists. If you believe this places the economic interests of the yacht over the State's interests, I strongly encourage you to work with the MPC to draft a regulation to present to the Board.

The 2011 pilotage exemption form contained the language "Overall length is measured from the foremost part of the stern to the aftermost part of the stern, including any fixed projections extending beyond the stem and stern" in a paragraph describing application fees. On the 2014 application, the language was replaced with "LOA is determined by the vessel's certificate of registry." The citation refers to AS 08.62.140(b) and 12 AAC 02.010. 12 AAC 56.115(a)(4) requires a copy of the vessel's registry be submitted to the MPC and "the length overall (LOA) of the vessel identified of the vessel's registry shall be used to calculate the fee set out in AS 08.62.140(b)". The definition in the 2014 application reflects the definition of length overall to calculate fees. There is currently no State of Alaska length overall definition.

Chris Hladick, Board of Marine Pilots
September 25, 2015
Page 2

The Board shall be discussing a possible regulation defining length overall in reference to pilot exemptions at the October 27 Board of Marine Pilots meeting, and I urge your pilot organization to participate in the discussion via public comment.

I understand your many concerns about an overhaul of the foreign pleasure-craft program, mariner credentials, interactions with pilots, and how to define "casualties". Your participation is important to the success of this program. I suggest you present an argument to the Board concerning a possible regulation addition.

Thank you,

Sincerely,
Chris Hladick

Chairman Board of Marine Pilots

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

May 3, 2015

Alaska Board of Marine Pilots
P.O. Box 110806
Juneau, Alaska 99811-0806

Attn: Marine Pilot Coordinator

Dear Crystal:

Re: Captain Richard D. Desautel.

Please be advised that Captain Richard D. Desautel is no longer in compliance with the SWAPA Bylaws which are a condition of membership in the Association. Captain Desautel has been off dispatch since the beginning of January and both his Capital Account and Membership Investment Account have been fully depleted during this time. He is unable therefore to cover any Association expenses or additional personal expenses which are customarily paid from his Capital Account on his behalf.

SWAPA first notified Capt. Desautel of the pending delinquencies in his accounts on March 11th, 2015 and have now sent a total of four requests via certified mail and email asking for the deficiencies to be covered. We have also repeatedly asked him to provide a return to work date as this is a requirement of our in-house dispatch rules. Captain Desautel did not respond to our requests and consequently a Board of Directors meeting was held on April 15th, 2015 to discuss the status of his membership and how the Association should move forward. The meeting ascertained that Capt. Desautel was non-compliant with the terms of his membership agreement and had not shown any intent to resolve the situation. At this meeting it was determined that a ballot would be issued asking the membership if Capt. Desautel should be expelled from the Association.

As of April 30th, Captain Desautel had failed to adequately respond to any of the written or verbal requests the Association had made of him. On May 1st, 2015 we did receive an email from Capt. Desautel stating that he intended to return to dispatch within three weeks. However, at this time, a definitive return to work date and required monies for his Membership Account and Capital Account have still not been received. SWAPA has provided him with multiple opportunities to rebut any of the facts presented and/or to discuss or resolve the situation. SWAPA believes it has acted in a nondiscriminatory manner and has offered Capt. Desautel the opportunity of a fair hearing. The Association has made every effort to ensure that due process has been followed. Furthermore, our understanding is that Capt. Desautel has been out of the

SOUTHWEST ALASKA PILOTS ASSOCIATION

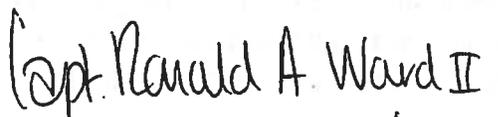
country for some time and attempts to reach him via mail, telephone, email or text have been mostly unsuccessful since late February. Due to long periods of time with no communication from him, the Board also made a decision to contact the local authorities on April 15th to ensure that his safety and well-being were not overlooked.

SWAPA Bylaws require a 2/3 affirmative vote of the membership to expel a member (Article XII, Section 3). This ballot has been disseminated to the membership and, per our Bylaws, is due by May 21, 2015. The Board of Directors decided that the ballot should also include a caveat allowing for the fact that, should Capt. Desautel and SWAPA reach an agreement regarding his membership and he is able to return to good standing prior to the ballot due date, then this specific ballot shall be rendered null and void. This is to ensure he is given a final opportunity to address this serious matter. Following the email communication on May 1st from Capt. Desautel, he was immediately informed that the ballot would be disseminated but assured that it could be nullified if he and SWAPA reach an agreement prior to its' due date. The vote is the will of the membership and the membership may choose not to vote in favor of expulsion which will therefore require that the issue is reviewed further if Captain Desautel has not returned to dispatch or brought his membership into good standing by that time.

This correspondence is being sent to you only to ensure that the Board of Marine Pilots is apprised of this evolving situation. Our hope is that this matter will be resolved before May 22nd, 2015 (allowing maximum time for the balloting process). At this juncture, either Captain Desautel will have returned to good standing or the membership will decide if expulsion is or is not the way forward.

If you have any questions, please do not hesitate to contact me. We will advise the Board of Marine Pilots as to the outcome of the ballot or should any other pertinent information arise.

Sincerely,



Captain Ronald A. Ward II
President

by JZ

c.c. Captain Richard D. Desautel
File

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

October 7, 2015

Ms. Crystal Dooley
Marine Pilot Coordinator
Alaska Board of Marine Pilots
P.O. Box 110806
Juneau, Alaska 99811

Dear Ms. Dooley,

Re: Alaska Board of Marine Pilots / Required publishing of rate changes

Enclosed please find the newspaper legal notice to be published in a newspaper of general circulation in Alaska, October 7th, 8th & 9th, 2015 as per Alaska Statute 08.62.046.

Copies are being sent via certified mail to all registered agents.

Sincerely,



Captain Ronald A. Ward, II by Jcz
President/SWAPA

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

NOTICE OF INTENT TO REVISE PILOTAGE RATE SCHEDULE AS PER AS 08.62.046

- A. Name and Mailing Address of Pilot Organization:**
Southwest Alaska Pilots Association (SWAPA), P.O. Box 977, Homer, AK 99603
- B. Time and Adoption of the Rate Schedule:**
January 1, 2016
- C. Place and Adoption of the Rate Schedule:**
Southwestern Alaska, Region II.
- D. Proposed Rates for SWAPA: CRUISE SHIPS;CLASS RATES**

<u>CLASS</u>	<u>HOURS PER PILOT</u>		<u>CLASS RATES PER PILOT</u>
	<u>FROM</u>	<u>TO</u>	
I	44	50	\$ 8,612.54
II	Greater than 50	55	\$ 9,528.78
III	Greater than 55	60	\$10,536.64
IV	Greater than 60	66	\$11,636.10
V	Greater than 66	73	\$12,735.57
VI	Greater than 73	80	\$13,926.68
VII	Greater than 80	85	\$15,026.14
VIII	Greater than 85	92	\$16,217.24
IX	Greater than 92	98	\$17,499.96

Gross Tonnage Rates:

IGT in excess of	5,000	\$0.0131
IGT in excess of	14,000	\$0.0151
IGT in excess of	50,000	\$0.0165

Class Rates shall be double for Two Pilots.

When a pilot exceeds eight continuous hours on duty without a six hour rest period or presence of a relief pilot while transiting compulsory pilotage waters, overtime may be charged.

Payment for pilot rates and charges is due upon receipt of invoice. An interest rate charge of 1.5% per month will be assessed on all balances remaining unpaid after 45 days from the date of the invoice.

All other applicable provisions and charges stated in the published rates for Region II shall apply except for those charges and rates shown above.

These rates and charges are separate and distinct as developed with due regard for statutory limitation of liability.

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

October 7, 2015

Ms. Crystal Dooley
Marine Pilot Coordinator
Alaska Board of Marine Pilots
P.O. Box 110806
Juneau, Alaska 99811

Dear Ms. Dooley,

Re: Alaska Board of Marine Pilots / Required publishing of rate changes

Enclosed please find the newspaper legal notice to be published in a newspaper of general circulation in Alaska, October 7th, 8th & 9th, 2015 as per Alaska Statute 08.62.046.

Copies are being sent via certified mail to all registered agents.

Sincerely,

Capt. Ronald A. Ward II

Captain Ronald A. Ward, II *by Jcz*
President/SWAPA

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

NOTICE OF INTENT TO REVISE PILOTAGE RATE SCHEDULE AS PER AS 08.62.046

- A. Name and Mailing Address of Pilot Organization:**
Southwest Alaska Pilots Association (SWAPA), P.O. Box 977, Homer, AK 99603
- B. Time and Adoption of the Rate Schedule:**
January 1, 2016
- C. Place and Adoption of the Rate Schedule:**
Southwestern Alaska, Region II.
- D. Proposed Rates for SWAPA: COOK INLET LNG CARRIERS**

As subject to the following USCG COTP Rule:

ALASKA-COOK INLET-SECURITY ZONE

The following areas are established as security zones during the specified conditions: All navigable waters within a 1000-yard radius of the Liquefied Natural Gas (LNG) tankers during their inbound and outbound transits through Cook Inlet, Alaska between the Phillips Petroleum LNG Pier, 60-40-43N and 151-24-10W, and the Homer Pilot Station at 59-34-86N and 151-25-74W. On the inbound transit, this security zone remains in effect until the tanker is alongside the Phillips Petroleum LNG Pier, 60-40-43N and 151-24-10W. All navigable waters within a 1000-yard radius of the Liquefied Natural Gas tankers while they are moored at Phillips Petroleum LNG Pier, 60-40-43N and 151-24-10W.

<u>Port Rate</u>	<u>Rates</u>	<u>B.W.T./Hours</u>
P/S Homer to Nikiski	\$2,783.40	14.0

Bridge Time in excess of eight (8) hours - rate of \$198.05 per hour.

Bridge Watch at Master's request - rate of \$198.05 per hour.

Standby/Travel - rate of \$198.05 per hour applied when limits of B.W.T. have been exceeded.

Gross Tonnage Rates \$0.0749 per IGT.

Second pilot charges assessed whenever SWAPA dispatches two pilots:

Port Rate 100% of first pilot

Standby/Travel 100% of first pilot

Int'l Gross Tons 100% of first pilot

These charges are in addition to normal reimbursable travel expenses.

Cancellations: When the agent, owner, or master of a vessel sets the time of movement in accordance with 12 AAC 56.205 (a), if the order is cancelled with less than 24 hours' notice and the pilot has not reported for duty or left for the job, SWAPA reserves the right to charge the following fees:

A vessel that cancels a request for a pilot within 12-24 hours of the time service was requested shall be charged a cancellation fee equal to two hours at \$198.05 per hour. A vessel that cancels

SOUTHWEST ALASKA PILOTS ASSOCIATION

a request for a pilot with less than 12 hours' notice of the time service was requested shall be charged a cancellation fee equal to four hours at \$198.05 per hour. If a cancellation, change or delay to the time set is made with less than 24 hours' notice and a pilot has reported for duty or has left for the job, a cancellation fee will not be charged but normal billing rates shall apply. Cancellations, delays or late changes may therefore incur extra hourly costs and travel expenses due to pilot already being on standby and/or traveling in an attempt to provide service as requested.

Late Notice: If less than 24 hours' notice is given to set the time of movement [as required under 12 AAC 56.205 (a)] but a pilot is able to reach the vessel to render pilot services as requested, SWAPA reserves the right to charge the following fees in addition to all other appropriate billing rates and travel expenses:

Less than 24 but more than 12 hours' notice: a late notice fee equal to two hours at \$198.05 per hour.

Less than 12 hours' notice: a late notice fee equal to four hours at \$198.05 per hour.

Payment for pilot rates and charges due upon receipt of invoice. An interest rate charge of 1.5% per month will be assessed on all balances remaining unpaid after 45 days from date of the invoice.

These rates and charges are separate and distinct as developed with due regard for statutory limitation of liability.

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

October 7, 2015

Ms. Crystal Dooley
Marine Pilot Coordinator
Alaska Board of Marine Pilots
P.O. Box 110806
Juneau, Alaska 99811

Dear Ms. Dooley,

Re: Alaska Board of Marine Pilots / Required publishing of rate changes

Enclosed please find the newspaper legal notice to be published in a newspaper of general circulation in Alaska, October 7th, 8th & 9th, 2015 as per Alaska Statute 08.62.046.

Copies are being sent via certified mail to all registered agents.

Sincerely,

Capt. Ronald A. Ward II

Captain Ronald A. Ward, II *by Jez*
President/SWAPA

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

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

NOTICE OF INTENT TO REVISE PILOTAGE RATE SCHEDULE AS PER AS 08.62.046

- A. Name and Mailing Address of Pilot Organization:**
Southwest Alaska Pilots Association (SWAPA), P.O. Box 977, Homer, AK 99603
- B. Time and Adoption of the Rate Schedule:**
January 1, 2016
- C. Place and Adoption of the Rate Schedule:**
Southwestern Alaska, Region II.
- D. Proposed Rates for SWAPA: NON STANDARD OPERATIONS**

Rates for pilotage service rendered to vessels engaged in non-standard operations not covered by other published Region II rates.

SWAPA will charge \$215.39 per hour for each pilot assigned to a vessel engaged in non-standard operations. Chargeable time will include bridge time, travel time and standby time based on the most efficient means of travel to and from the vessel.

In the event a vessel engaged in non-standard operations requires pilotage service in excess of 72 hours then SWAPA, at their option, will change out pilots at intervals not to exceed 72 hours including travel and standby time.

A Length Overall Charge (LOA) shall be assessed as a percent of the total invoice less reimbursable expenses as shown:

Less than 450 feet	0 – Percent
More than 450 less than 500 feet	5 – Percent
More than 500 less than 550 feet	15 – Percent
More than 550 less than 600 feet	25 – Percent
Over 600 feet	40 – Percent

These charges are in addition to normal reimbursable travel expenses. SWAPA will charge a vessel unwilling or unable to furnish separate sleeping and bath officer grade accommodations at the per diem hotel rate for each pilot onboard the vessel more than 15 hours.

Cancellations: When the agent, owner, or master of a vessel sets the time of movement in accordance with 12 AAC 56.205 (a), if the order is cancelled with less than 24 hours' notice and the pilot has not reported for duty or left for the job, SWAPA reserves the right to charge the following fees:

A vessel that cancels a request for a pilot within 12-24 hours of the time service was requested shall be charged a cancellation fee equal to two hours of the non-standard hourly rate. A vessel that cancels a request for a pilot with less than 12 hours' notice of the time service was requested shall be charged a cancellation fee equal to four hours of the non-standard hourly rate. If a cancellation, change or delay to the time set is made with less than 24 hours' notice and a pilot has reported for duty or has left for the job, a cancellation fee will not be charged but normal billing rates shall apply. Cancellations, delays or

SOUTHWEST ALASKA PILOTS ASSOCIATION

late changes may therefore incur extra hourly costs and travel expenses due to pilot already being on standby and/or traveling in an attempt to provide service as requested.

Late Notice: If less than 24 hours' notice is given to set the time of movement [as required under 12 AAC 56.205 (a)] but a pilot is able to reach the vessel to render pilot services as requested, SWAPA reserves the right to charge the following fees in addition to all other appropriate billing rates and travel expenses:

Less than 24 but more than 12 hours' notice: a late notice fee equal to two hours of the non-standard hourly rate.

Less than 12 hours' notice: a late notice fee equal to four hours of the non-standard hourly rate.

Payment for pilot rates and charges are due upon receipt of invoice. An interest rate charge of 1.5% per month will be assessed on all balances remaining unpaid after 45 days from the date of the invoice.

These rates and charges are separate and distinct as developed with due regard for statutory limitation of liability.

From: [Irwin, Lindy \(GOV\)](#)
To: [Dooley, Crystal L \(CED\)](#)
Subject: Board of Marine Pilots
Date: Monday, October 12, 2015 12:56:48 PM

Good afternoon,

We are preparing for the Legislative Confirmation hearings that will begin in February. In early January we must submit a letter to the Legislature of all appointees who require legislative confirmation and whose terms will begin on or before March 1, 2016.

Therefore, we are soliciting applications and determining which members may wish to continue. To be considered, we require an application from anyone who has not submitted an online application within the past two years, even current expiring members. The link is provided below:

<http://gov.alaska.gov/Walker/services/boards-commissions/apply-info.html>

The online application allows them to attach a resume and cover letter. It also provides us with required information and updates contact information. All applications should be submitted by November 1, 2015.

As the board contact, we are aware that you are a valuable resource as we move forward. We appreciate your input and we look forward to hearing from you.

Lindy Irwin
Boards and Commissions
Office of Governor Bill Walker
550 West 7th Avenue, Suite 1700
Anchorage, Alaska 99501
PHONE: 907.269.7450
FAX: 907.269.7463
lindy.irwin@alaska.gov
www.gov.alaska.gov

Annual Report
Fiscal Year 2015

BOARD OF MARINE PILOTS

July 2015



**DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING**

This Annual Performance Report is presented in accordance with Alaska Statute 08.01.070(1) and Alaska Statute 37.07.080(b). Its purpose is to report the accomplishments, activities, and the past and present needs of the licensing program.

**ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT**

TABLE OF CONTENTS

	<u>Page #</u>
IDENTIFICATION OF BOARD	1
IDENTIFICATION OF STAFF	2
NARRATIVE STATEMENT	3
BUDGET RECOMMENDATIONS	5
PROPOSED LEGISLATIVE RECOMMENDATIONS	7
REGULATION RECOMMENDATIONS	8
GOALS AND OBJECTIVES	9
SUNSET AUDIT RECOMMENDATIONS	10

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
IDENTIFICATION OF BOARD

<u>Board Member</u>	<u>Date Appointed</u>	<u>Term Expires</u>
Chris Hladick Chairman (DCCED Commissioner AS 08.62.010)	March 20, 2015	Indefinite
Hans H. Antonsen Pilot Member	March 22, 2013	March 1, 2017
David Arzt Pilot Member	March 1, 2011	March 1, 2019
Richard A. Erickson Vessel Agent Member	March 1, 2010	March 1, 2018
Shirley R. Marquardt Public Member	March 1, 2015	March 1, 2018
Robert L. Richmond Public Member	January 1, 2011	March 1, 2016
Tom W. Rueter Vessel Agent Member	April 1, 2012	March 1, 2016

ALASKA STATE BOARD OF MARINE PILOTS

FY 2015 ANNUAL REPORT

IDENTIFICATION OF STAFF

Crystal Dooley, Marine Pilot Coordinator
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing
P.O. Box 110806
Juneau, Alaska 99811-0806
Work: (907) 465-2548
Fax: (907) 465-2974

Janey Hovenden, Director
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing
P.O. Box 110806
Juneau, Alaska 99811-0806
Work: (907) 465-2144
Fax: (907) 465-2974

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
NARRATIVE STATEMENT

The Board of Marine Pilots met six (6) times during the fiscal year.

- October 30, 2014 in Anchorage, Alaska
- December 22, 2014 by teleconference
- January 29, 2015 in Juneau, Alaska
- March 31, 2015 by teleconference
- April 16, 2015 in Juneau, Alaska
- May 28, 2015 by teleconference

Over the course of the year, the Board continued their work to establish, audit and enforce the standard as set in Alaska Statute 08.62 to:

- Ensure that persons entering the practice meet rigorous standards of competency, and maintain such standards during their practice;
- Assist the public in the knowledge of who is licensed;
- Approve the standards by which pilot organizations are operated and trainees are selected;
- Approve or disapprove rates for pilotage services;
- Ensure that drug and alcohol testing is compliant;
- Ensure that sufficient pilots are available to provide service; and
- Vessels subject to pilotage have a licensed pilot while transiting compulsory waters.

Throughout the year, the Board maintained their review of applications for pleasure craft of foreign registry seeking exemption from pilotage. For FY 15, twenty seven (27) applications were received and issued an exemption for their pleasure craft between 65-ft and 175-ft in length, with twenty five (25) new exemption numbers issued to yachts visiting Alaska for the first time. The average LOA was 112-ft. A pleasure craft of foreign registry of more than 400 gross registered tons must also comply with Department of Environmental Conservation statutes regarding the proof of financial responsibility in the event of an oil spill. For FY15 five (5) pleasure craft were issued exemptions once a Certificate of Financial Responsibility (COFR) was secured. Over \$70K in application fees were generated.

Marine Pilot and Registered Vessel Agent licenses expired on December 31, 2014. The Board oversees and regulates licensing renewal qualifications and process. The Board delegates license renewal processing to the Marine Pilot Coordinator. FY 15 yearend has 86 active Board of Marine Pilot licensees: 74 Marine Pilots, 4 Deputy Marine Pilots, and 9 Registered Vessel Agents.

Board Membership

The Board is comprised of two (2) public members, two (2) pilot members, two (2) vessel agents and the Commissioner or his designee (AS 08.62.010). During FY15 one (1) new public member seat and one (1) pilot member seat is appointed and re-appointed, respectively, by the Governor.

**ALASKA STATE BOARD OF MARINE PILOTS
FY 2014 ANNUAL REPORT
NARRATIVE STATEMENT CONTINUED**

Investigations

In FY15 one investigation opened during FY14 was closed. No new investigations were opened.

Public Information

The Board website makes it possible to provide online access to meeting and exam schedules, agendas, Board minutes, meeting materials, and notices for proposed regulation. Web based distribution helps the Board reduce costs and ensure accessibility for current and historical information and for ease of public access. The public may sign up to the Board's ListServ to receive timely information concerning board business via periodic emails sent out by the Marine Pilot Coordinator.

Drug and Alcohol Monitoring

The Board continues to maintain their oversight of mandatory drug and alcohol testing by licensed Marine Pilots, Deputy Marine Pilots, trainees and apprentices. As administered by the pilot associations, results are monitored by the Marine Pilot Coordinator. The Board annually reviews this data to ensure compliance.

Regulations

The Board amended regulation 12 AAC 56.120, Pilot Stations or Pickup Points, by changing coordinates to two (2) existing pilot stations and establishing four new stations. All changes to pilot stations for FY15 occur in Region 3 (Western Alaska). The Board conducted a thirty day public comment period and received zero comments on proposed regulation changes.

Rate Filings

In FY15 the Board did not receive any proposals for their approval to change published tariffs for pilotage services.

Working Groups

The Board is reviewing process, procedure, and role assignment during an investigation into violations of the Board of Marine Pilots' licensing law. A working group is established to review existing procedure and structure and to bring back to the Board recommend changes, if necessary, to ensure a licensee receives a fair investigative process and outcome. The work is ongoing.

Pending Issues

The next Board of Marine Pilots meeting is scheduled for October 27, 2015 in Anchorage, Alaska.

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
BUDGET RECOMMENDATIONS FOR FY 2016

TRAVEL REQUESTS: Rank in order of the board's priority. Provide the best estimates based on past actuals and seasonal trends in travel, such as summer hotel rooms or increased fuel costs. Calculate on full costs and note any third-party fiscal offsets. Expand the tables below as needed.

Board Meetings

Date	Location	# of Board Members	# of Staff	Total Estimated Cost (total of airline, hotel, mileage, M&IE, parking, rental car, taxi, etc.)
10/27/2015	Anchorage, AK	7	1	\$5,750.00
TBA	TBA (more remote community or port)	7	1	\$8,250.00
TBA	TBA	7	1	\$5,750.00

Travel Required to Perform Examinations

Date	Location	# of Board Members	# of Staff	Total Estimated Cost (total of airline, hotel, mileage, M&IE, parking, rental car, taxi, etc.)
TBA	TBA		1	\$2,000.00
Description of meeting and its role in supporting the mission of the board: Passage of written examination is a requirement of licensure; the Marine Pilot Coordinator administers the exam.				
Description of meeting and its role in supporting the mission of the board:				

Out-Of-State Meetings and Additional In-State Travel

Rank in order of the board's priority. "Reimbursement" refers to payment to the division to cover travel costs. "Direct" refers to an offer by a company to secure travel arrangements on behalf of the board member.

Rank	Date	Location	# of Board Members	# of Staff	Total Estimated Cost		Total Potential Third-Party Offset
					(total of airline, hotel, mileage, M&IE, parking, rental car, taxi, etc.)	Conference Fee	<input type="checkbox"/> Reimbursement <input type="checkbox"/> Direct
1							
	Description of meeting and its role in supporting the mission of the board:						
2							<input type="checkbox"/> Reimbursement <input type="checkbox"/> Direct
	Description of meeting and its role in supporting the mission of the board:						
3							<input type="checkbox"/> Reimbursement <input type="checkbox"/> Direct
	Description of meeting and its role in supporting the mission of the board:						
4							<input type="checkbox"/> Reimbursement <input type="checkbox"/> Direct
	Description of meeting and its role in supporting the mission of the board:						

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
BUDGET RECOMMENDATIONS FOR FY 2016 CONTINUED

NON-TRAVEL BUDGET REQUESTS

Dues/Memberships/Resources/Online Training/Teleconferences/Examination Contracts

Provide details of the budgetary request. Break down into specific events, where applicable.

Product or service: Teleconference	Provider: TBA	Cost per event: \$500.00
Description of item and its role in supporting the mission of the board: During FY14 the Board held three meetings via teleconference to conduct business. Estimated total for FY15 is \$1,500.		
Product or service:	Provider:	Cost per event:
Description of item and its role in supporting the mission of the board:		
Product or service:	Provider:	Cost per event:
Description of item and its role in supporting the mission of the board:		

Other Items with a Fiscal Impact:

Product or service:	Provider:	Cost per event:
Description of item and its role in supporting the mission of the board:		
Product or service:	Provider:	Cost per event:
Description of item and its role in supporting the mission of the board:		

Summary of FY16 Fiscal Requests

Board Meetings	\$19,750.00
Travel for Exams	\$ 2,000.00
Out-Of-State and Additional In-State Travel	
Dues/Memberships/Resources/Online Training/Teleconferences	\$ 1,500.00
Total Potential Third-Party Offset	
Other	
Total Requested:	\$23,250.00

Additional information:

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
ANTICIPATED PROPOSED LEGISLATION FOR FY 2016

The Board has no recommendations for proposed legislation at this time.

**ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
ANTICIPATED REGULATIONS FOR FY 2016**

The Board has no recommendations for proposed regulations at this time.

ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
GOALS AND OBJECTIVES FOR FY 2016

The mission of the Alaska State Board of Marine Pilots' is to provide efficient and competent pilotage service for the protection of shipping, the safety of human life and property, and the protection of the marine environment.

The Board's goals and objectives for FY15:

1. The Board will continue to assess and evaluate their written examinations for licensing.
2. The Board will continue to provide input and comment on any proposed legislation/regulations involving the protection of shipping, the safety of human life and property, and the protection of the marine environment;.
3. The Board will continue to ensure fair and equal access to the experience necessary to obtain or upgrade a pilot's license;
4. The Board will continue to ensure equitable and nondiscriminatory dispatch of pilots for prompt pilotage service;
5. The Board will continue to assess and evaluate standards for training of deputy trainees, apprentices, and Deputy Marine Pilots.
6. The Board will continue to assess and evaluate standards for continuing competency of Marine Pilots.
7. The Board will continue to assess and evaluate the licensing of Marine Pilots.
8. The Board will continue to evaluate the impact of current regulations.
9. The Board will continue to leverage the professional expertise of both the Marine Pilots and the maritime industry to provide a comprehensive perspective to decisions that impact the safety and sustainability of the Alaskan maritime resources.
10. The Board will continue to assess the impact and management of foreign pleasure craft as vessel traffic increases and situations arise.

The Board meets their goals and objective through scheduled board meetings, teleconferences, and work groups. All board meetings are open to the public. Input from the public, licensees, pilot associations, registered agents, and industry on matters under the Board's jurisdiction as defined by AS 08.62 is routine. The Board's unique makeup of two public members, two licensed pilots, two registered vessel agents, and the DCCED Commissioner allows for thorough issue deliberations and judicious decisions on Board matters and to meet their goals and objectives. The Marine Pilot Coordinator assists the Board in completing goals, objectives, and daily program administration as per AS 08.62.050

In FY16 the Alaska State Board of Marine Pilots adopts FY15 goals and objectives.

**ALASKA STATE BOARD OF MARINE PILOTS
FY 2015 ANNUAL REPORT
SUNSET AUDIT RECOMMENDATIONS**

Date of last Legislative Audit: November 05, 2012

Board sunset date: June 30, 2019

Audit Recommendation #1: The Marine Pilot Coordinator should improve administration of BMP operational activities.

Action taken: The Marine Pilot Coordinator (MPC) improves administration through program and statute/regulation familiarity and longevity (second year as MPC), development and use of checklists, and persistence in obtaining missing or required licensing information.
Next Steps: Continual process and procedure review and making improvements when necessary.
Date completed: On going.

Audit Recommendation #2:

Action taken:
Next Steps:
Date completed:

Audit Recommendation #3:

Action taken:
Next Steps:
Date completed:

Audit Recommendation #4:

Action taken:
Next Steps:
Date completed:

BOARD OF MARINE PILOT RECOGNITION

- Paul Merrill – Training Endorsement
- Peter Garay – Training Endorsement
- Norbert Chaudhary – Training Endorsement
- Matt Michalski – Deputy pilot & Upgrade from 25KGT to 65KGT

Ethics Act Training:

Alaska Executive Branch Ethics Act Chapter 39.52

<http://law.alaska.gov/doclibrary/ethics/EthicsAct.html>

Why is the Ethics Act important?

Sec. 39.52.010. Declaration of policy.

(a) It is declared that

(1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;

(2) a code of ethics for the guidance of public officers will

(A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;

(B) improve standards of public service; and

(C) promote and strengthen the faith and confidence of the people of this state in their public officers;

(3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;

(4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;

(5) in order for the rules governing conduct to be respected both during and after leaving public service, the code of ethics must be administered fairly without bias or favoritism;

(6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment; and

(7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.

(b) The legislature declares that it is the policy of the state, when a public employee is appointed to serve on a state board or commission, that the holding of such offices does not constitute the holding of incompatible offices unless expressly prohibited by the Alaska Constitution, this chapter and any opinions or decisions rendered under it, or another statute.

Ex parte communication – An applicant, licensee, or attorney attempting to circumvent the usual application decision-making procedures, to seek information on a pending application, to discuss a disciplinary action, or to seek influence on a person’s decision by directly contacting one of the Board members. Casual conversation counts! (CBPL Boards & Commissions Manual, 21)

Conflict of Interest – a Board or Commission member has a direct personal interest, usually a financial interest, in a matter before the board or commission. Should be reported at the beginning of a meeting and affected members must request to be excused from voting on the matter (CBPL Boards and Commissions Manual, 16).

Board of Marine Pilots Investigations FAQ

Pilots/Agents/Foreign Pleasure-craft/General Questions:

Q: I've received notification from the MPC that a complaint has been filed against me. Now what? Who is the investigator?

A: The investigator for all Board of Marine Pilot issues is the Marine Pilot Coordinator (MPC). The complaint process is outlined the investigation process written document and the investigation flowchart, both available at <https://www.commerce.alaska.gov/web/cbpl/Investigations.aspx>. The MPC will contact involved parties for pertinent information; the information will be forwarded to a Reviewing Board Member to determine if the case is jurisdictional to the Board of Marine Pilots and, if so, whether a violation of statutes/regulations may have occurred. If the Reviewing Board Member determines the case is not jurisdictional or a violation, the case is closed and there will be no further action. You will be notified by the MPC that the inquiry has been closed. If the Reviewing Board Member determines the case is jurisdictional and a violation has occurred, you will be contacted by the MPC.

Q. Does a complaint letter automatically mean I'm under investigation?

A. No. It simply means that the MPC is gathering information to pass along to a Reviewing Board Member. The MPC does not close cases without the Reviewing Board Member's direction.

Q. How can this impact my career?

A. <https://www.commerce.alaska.gov/web/Portals/5/pub/ComplaintInvestigationFlowchart.pdf>
The Board/Commission License Action Options chart gives options the Board can take, if the inquiry reaches that level. The majority of cases are closed at the Reviewing Board Member level and the Board is never informed.

Q: Can I find out who my Reviewing Board Member is? How do I know they are not biased for/against me?

A: Reviewing Board Members must confirm with the investigator they are not biased towards the individual or issue. The Reviewing Board Member is a licensed member (licensed pilots will be used for pilot issues, licensed agents will be used for agent issues, etc.) but a licensee cannot request a specific Reviewing Board Member or contact the Reviewing Board Member for more information. If there is not a Reviewing Board Member available, the MPC may utilize an Expert Witness. An Expert Witness is a former Board member with prior experience in both the licensee's field and the Division's investigation process. The Reviewing Board Member will recuse themselves from the discussion and vote on the matter.

Q. I know someone on the Board, can I talk to them about it?

A. Do not contact Board members. If a case reaches the Board level, Board members are expected to remain a neutral third party and cannot make decisions based on outside information. If a Board member has personal information involving a case, they may be forced to recuse themselves from discussion and voting.

Q. How can I as a vessel agent help my clients understand this process, if necessary?

A. Direct the vessel to the Division's Investigations website <https://www.commerce.alaska.gov/web/cbpl/Investigations.aspx> and explain that investigation communication will flow through the MPC. The MPC cannot discuss the case with the vessel agents or vessel agent board members. Please encourage the yacht to contact the MPC with any questions.

Q: My foreign pleasure-craft has a complaint filed against it. Can my agent work with the MPC since I'm underway?

A: The MPC will only communicate complaint issues with the involved pleasure-craft, even though the pleasure-craft has a registered agent. However, the pleasure-craft may choose to involve the agent about the process. If the Master feels the agent must be present for an interview, the MPC may allow it at the Division's discretion.

Q: Do I have to remain within the State of Alaska as the MPC completes the inquiry?

A: No.

Board members:

Q: I work with a yacht/pilot within my profession and I'm a Board member. Do I have to recuse myself when a potential disciplinary action against this party is considered?

A: You must bring the issue before the Chair before determination at the meeting **before** the discussion on the issue.

Q: I know the MPC is looking into a specific issue. Can I call them and request a brief?

A: No. If you receive "insider information", you may have to recuse yourself at the Chair's discretion. The MPC cannot brief Board members on investigations outside of Executive Session, and a member may have to recuse themselves if they find out information through personal or professional connections. The Board must remain a neutral third party.

Q: I've found out about a complaint. Must I recuse myself?

A: Please let the MPC know as soon as possible.

Sources:

Investigation Process written document:

[https://www.commerce.alaska.gov/web/Portals/5/pub/CBPL Investigative Process Explanation.pdf](https://www.commerce.alaska.gov/web/Portals/5/pub/CBPL%20Investigative%20Process%20Explanation.pdf)

Investigation flowchart:

<https://www.commerce.alaska.gov/web/Portals/5/pub/InvestigativeProcess.pdf>

Board/Commission License Action Options:

<https://www.commerce.alaska.gov/web/Portals/5/pub/ComplaintInvestigationFlowchart.pdf>

Chapter 39.52 Alaska Executive Branch Ethics Act

<http://law.alaska.gov/doclibrary/ethics/EthicsAct.html>

Orientation Manual for Professional Licensing Boards & Commissions

<https://int.commerce.alaska.gov/dcced/intranet/pubs/oclic/CBPLBoardsAndCommissionsTrainingManual.pdf>

12 AAC 56.960. DUTIES OF PILOTS. (a) A pilot shall be on duty, at the conn, piloting the vessel at all times when the vessel is in transit or maneuvering in compulsory pilotage waters. A pilot at the conn may only be relieved for cause by the vessel's master or the officer in charge of the navigational watch when the master is absent from the bridge. The pilot may voluntarily relinquish the conn to a ship's officer, but may reassume the conn at any time.

(b) A passenger vessel in transit of compulsory pilotage waters not excluded under 12 AAC 56.110 must carry two pilots on board except during an entry transit between a pilot station and a harbor or anchorage within compulsory pilotage waters, or an exit from compulsory pilotage waters where the entry or exit transit is normally less than eight hours.

(c) A non-passenger vessel in a continuous transit of compulsory pilotage waters of Southeast Alaska that is expected to exceed eight hours must employ two pilots.

(d) If a vessel piloted by a state licensed pilot goes aground, collides with another vessel or dock, meets with any casualty, or is damaged in any way, the pilot shall, no later than 72 hours after returning ashore after the incident, file with the marine pilot coordinator an incident report as described in 12 AAC 56.965. The marine pilot coordinator will, in coordinator's discretion, investigate the reported incident.

12 AAC 56.965. INCIDENT REPORT. (a) The written incident report required by 12 AAC 56.960(d) must be in writing on the form provided by the department. All applicable sections of the form shall be completed. The required information shall be obtained as soon as the situation stabilizes and the pilot can dedicate his or her time and attention to providing the information.

(b) The report shall include

- (1) identification of the pilot;
- (2) date and time of the incident;
- (3) identification and description of the piloted vessel and its cargo;
- (4) identification of the vessel's master and agent;
- (5) a detailed description of the location of the incident;
- (6) a description of the weather and sea conditions at the time of the incident;
- (7) identification of all other persons and vessels involved in the incident;
- (8) identification of witnesses; and
- (9) an illustrated and narrative description of the incident.

Authority: AS 08.62.040

LENGTH OVERALL:

46 CFR 170.055 Definitions concerning a vessel:

(k) *Length* means the distance between fore and aft points on a vessel. The following specific terms are used and correspond to specific fore and aft points:

(1) *Length between perpendiculars (LBP)* means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest operating draft. For a small passenger vessel that has underwater projections extending forward of the forward-most point or aft of the after-most point on the deepest waterline of the vessel, the Commanding Officer, U.S. Coast Guard Marine Safety Center, may include the length or a portion of the length of the underwater projections in the value used for the LBP for the purposes of this subchapter. The length or a portion of the length of projections that contribute more than 2 percent of the underwater volume of the vessel is normally added to the actual LBP.

(2) *Length overall (LOA)* means the horizontal distance between the forward-most and after-most points on the hull.

(3) *Length on the waterline (LWL)* means the horizontal distance between the forward-most and after-most points on a vessel's waterline.

(4) *Length on deck (LOD)* means the length between the forward-most and after-most points on a specified deck measured along the deck, excluding sheer.

(5) *Load line length (LLL)* has the same meaning that is provided for the term *length* in § 42.13-15(a) of this chapter.

(6) *Mean length* is the average of the length between perpendiculars (LBP) and the length on deck (LOD).

US Coast Guard Navigation and Vessel Inspection Circular, 2003

https://www.uscg.mil/hq/msc/tonnage/docs/nvic_11-93_CH-3.pdf

Overall Length - The horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

NOAA, defining Alaska fisheries

<http://alaskafisheries.noaa.gov/regs/679a2.pdf>

Length overall (LOA) of a vessel means the centerline longitudinal distance, rounded to the nearest foot, measured between:

(1) The outside foremost part of the vessel visible above the waterline, including bulwarks, but excluding bowsprits and similar fittings or attachments, and

(2) The outside aftermost part of the vessel visible above the waterline, including bulwarks, but excluding rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 to this part).

Commonwealth of Australia Consolidated Acts Navigation Act 2012 – Section 20 Definition of vessel's length overall

http://www5.austlii.edu.au/au/legis/cth/consol_act/na2012123/s20.html(1) Subject to subsection (2), the *length overall* of a vessel is 110% of the length as shown on the vessel's load line certification.

(2) If the length overall of a vessel cannot be worked out under subsection (1), the *length overall* is taken to be the distance between:

- (a) a vertical line passing through a point that is the foremost part of the bow; and
- (b) a vertical line passing through a point that is the aftermost part of the stern.

Food and Agriculture Organization of the United Nations, Coordinating Working Party on Fishery Statistic

ftp://ftp.fao.org/fi/document/cwp/cwp_21/inf2.pdf

Length overall is defined as the distance measured in metres in a straight line on a line parallel to the design waterline between the foremost point of the bow and the aftermost point of the stern. For the purpose of this definition:

- a) the bow is taken to include the watertight hull structure, the forecastle, stem and forward bulkhead, if fitted, but not to include bowsprits and safety rail.
- b) the stern is taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but does not include safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms.

Panama Canal

<https://www.pancanal.com/eng/legal/reglamentos/acuerdo2-eng.pdf>

LOA = The Length overall, i.e., the length of the vessel in meters from the foremost to the aftermost points, including a bulbous bow if present.

International Maritime Organization – International Convention on Load Lines, 1966

[http://www.imo.org/blast/blastDataHelper.asp?data_id=15516&filename=143\(77\).pdf](http://www.imo.org/blast/blastDataHelper.asp?data_id=15516&filename=143(77).pdf)

(1) Length

(a) The length (L) shall be taken as 96% of the total length on a waterline at 85% of the least moulded depth measured from the top of the keel, or as the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater.

(b) For ships without a rudder stock, the length (L) is to be taken as 96% of the waterline at 85% of the least moulded depth.

(c) Where the stem contour is concave above the waterline at 85% of the least moulded depth, both the forward terminal of the total length and the fore-side of the stem respectively shall be taken at the vertical projection to that waterline of the aftermost point of the stem contour (above that waterline) (see figure 3.1).

(d) In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline at 85% of the least moulded depth D_{min} , found by drawing a line parallel to the keel line of the

vessel (including skag) tangent to the moulded sheer line of the freeboard deck. The least moulded depth is the vertical distance measured from the top of the keel to the top of the freeboard deck beam at side at the point of tangency (see figure 3.2).

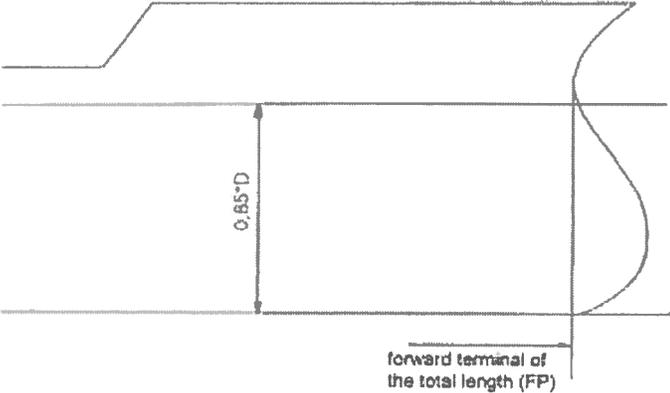


Figure 3.1

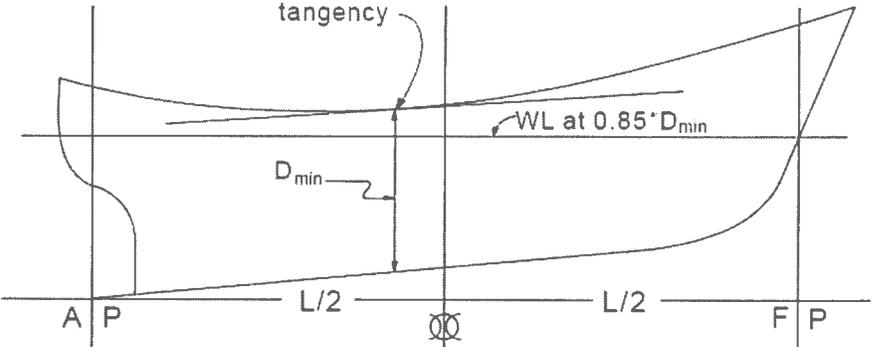


Figure 3.2



THE STATE

of **ALASKA**

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

Board of Marine Pilots

State Office Building, 333 Willoughby Avenue, 9th Floor

PO Box 110806, Juneau, AK 99811-0806

Phone: (907) 465-2548 ★ Fax: (907) 465-2974

Email: license@alaska.gov

Website: <http://commerce.alaska.gov/dnn/cbpl/ProfessionalLicensing/BoardofMarinePilots.aspx>

APPLICATION FOR PILOTAGE EXEMPTION FOR PLEASURE CRAFT OF FOREIGN REGISTRY

BOARD OF MARINE PILOTS

State Office Building

333 Willoughby Avenue, 9th Floor

PO Box 110806, Juneau AK 99811-0806

In the State of Alaska, a pleasure craft of foreign registry that is more than 65 feet overall length is required to employ a state-licensed marine pilot while the pleasure craft is in compulsory pilotage waters of the state. [AS 08.62.160]

The operator of a pleasure craft of foreign registry of more than **65 feet** (19.8m) length overall, but less than **175 feet** (53.3m) length overall, may apply for an exemption from the state pilotage requirement. Exemptions are granted by the Alaska Board of Marine Pilots. [AS 08.62.180(b)-(e)]

A "pleasure craft" is defined as "a vessel that does not carry passengers or freight for hire" and "for hire" is defined as "when consideration is contributed as a condition of carriage on a vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or other person having an interest in the vessel". [AS 08.62.180(e)]

Application for Exemption: To apply for an exemption from state pilotage requirements for transit as a pleasure craft, the operator of the pleasure craft must complete the attached application form and submit it to the Alaska State Marine Pilot Coordinator at least 30 days before the vessel enters state waters along with the required documentation and applicable fee. [AS 08.62.180(b)]

The application fee is \$250 plus \$50 for each whole foot in length of the vessel that exceeds 65 feet length overall (LOA). LOA is determined by the vessel's certificate of registry. Payment may be made by check, credit card, or money order. [AS 08.62.140(b), 12 AAC 02.010]

The completed application will be approved or denied within 10 working days from the date of its receipt by the AK Board of Marine Pilots. If additional information is requested from the applicant to complete or clarify the application for exemption, the 10-working-day time period is suspended while the Marine Pilot Coordinator is waiting for the applicant's response to the Board's request. [AS 08.62.180(b)]

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, and for a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement. [12 AAC 56.115(c)]

If the vessel is required under AS 46.04 to provide proof of financial responsibility, a current copy of the vessel's Alaska Department of Environmental Conservation certificate of financial responsibility, or a copy of the current application for an Alaska Department of Environmental Conservation for the vessel's certificate of financial responsibility, must be submitted with the application for pilotage exemption. [12 AAC 56.115(a)(H)].

Please reference the State of Alaska Division of Spill Prevention and Response webpage (<https://dec.alaska.gov/spar/ipp/fr/do-i-need-fr.htm>) to determine if your vessel needs an approved proof of financial responsibility. Please note that COFR's are determined based on gross REGISTERED tons.

The operator of a pleasure craft seeking an exemption from state pilotage requirements must employ a vessel agent from the register of agents maintained by the Board, and ensure the vessel is equipped with the following: [12 AAC 56.115(a)(2)]

- (A) a class A or B automatic identification system (AIS);
- (B) RADAR: if the vessel is over 125 feet long, the RADAR must be ARPA capable;
- (C) a depth sounder with depth alarm;
- (D) a magnetic compass with a deviation table issued not later than one (1) year before the date of application for an exemption; and
- (E) one or more VHF radios capable of simultaneously monitoring Channels 13 and 16.

The operator of a pleasure craft seeking an exemption from state pilotage requirements must ensure the pleasure craft has on board for each area of the state to be transited [12 AAC 56,115(a)(3)]:

- current copies of all applicable nautical charts
- current copies of applicable *Coast Pilot(s)*
- current copies of tide tables
- *Southeast Alaska Voluntary Waterway Guide* (if traveling Southeast region)
- *Tongass Narrows Users Guide* (if traveling Tongass Narrows)
- Vessel Traffic System regulations (if traveling Prince William Sound)

If a pleasure craft of foreign registry of more than 65 feet overall length enters compulsory pilotage waters without a pilot or a pilotage exemption, the operator of the pleasure craft will not be granted a subsequent pilotage exemption until the operator provides the AK State Marine Pilot Coordinator satisfactory documentation detailing the pleasure craft's entry into compulsory pilotage waters and all subsequent voyages in violation of Alaska law. [12 AAC 56.115]

Conditions of Operation: An exemption granted by the Board will be confirmed in writing and a certificate provided. A pleasure craft is not exempt from state pilotage requirements until the vessel operator has received the exemption certificate. The operator of the vessel must **retain the exemption certificate on board** while the vessel is in state waters. An exemption from state pilotage requirements is valid for one year from the date on which the exemption was issued, unless surrendered by the applicant or revoked by the Board. [AS 08.62.180(b)]

While **underway** in compulsory pilotage waters, the master of a pleasure craft with a current pilotage exemption must ensure the following [12 AAC 56.115(d)]:

- (1) the vessel transmits via an automatic identification system (AIS) the vessel's name, length, beam, draft, course, speed, and destination;
- (2) an individual who speaks and understands English is present on the bridge;
- (3) the vessel crew simultaneously monitors VHF radio channels 13 and 16; and
- (4) while the vessel is transiting the Prince William Sound VTS lanes, the vessel master is present on the bridge.

A pilotage exemption does not exempt a vessel from the requirement to employ a state-licensed marine pilot while the vessel is in **Wrangell Narrows** or in the waters between **Chatham Strait and Sitka via Peril Strait**. [AS 08.62.180(b)]

A pilotage exemption may be revoked if the vessel is not operated in a manner that is appropriate to protect human life, property, and the marine environment; if the vessel violates the terms of the exemption; or if the vessel's master does not comply with all applicable local, state, and federal laws. [AS 08.62.180(b)]

The operator of a pleasure craft of foreign registry more than **125 feet overall length** but **less than 175 feet overall length** that has received a pilotage exemption shall employ a state-licensed marine pilot from initial entry into state compulsory pilotage waters to the first port of call. The marine pilot shall provide navigational and safety information relating to the pilotage region to the operator of the vessel. [AS 08.62.180(d)]

The operator of a pleasure craft of foreign registry more than **65 feet overall length** but not more than **125 feet overall length** that has received a pilotage exemption shall proceed upon its initial entry into state waters to the first port of call to receive navigational and safety information from the registered vessel agent employed by the operator of the vessel. [AS 08.62.180(c)]

The owner or operator of a pleasure craft of foreign registry that fails to employ a state-licensed marine pilot as required is punishable by a fine of up to \$10,000 for each violation. [AS 08.62.040(f)]

Assistance: Contact the Alaska Marine Pilot Coordinator at (907) 465-2548 phone, fax (907) 465-2974 or email: license@alaska.gov

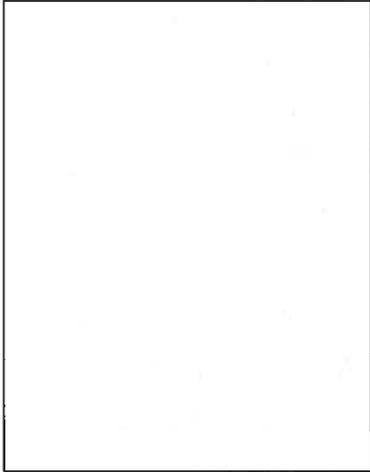


THE STATE of ALASKA

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

Board of Marine Pilots

State Office Building, 333 Willoughby Avenue, 9th Floor
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Phone: (907) 465-2548 ★ Fax: (907) 465-2974
Email: license@alaska.gov
Website: http://commerce.alaska.gov/dnn/cbpl/ProfessionalLicensing/BoardofMarinePilots.aspx



APPLICATION FOR EXEMPTION FOR PILOTAGE REQUIREMENTS FOR PLEASURE CRAFT OF FOREIGN REGISTRY

(of more than 65 feet overall length but less than 175 feet overall length)

1. Operator of Vessel:

Name: _____

Address: _____

Telephone: _____ Email: _____

2. Owner of Vessel (applicant):

Name: _____

Address: _____

Telephone: _____ Email: _____

3. Vessel Agent Information:

The following Vessel Agent has been employed:

Vessel Agent Name: _____

Registration Number: _____ Phone: _____

Application for Exemption for Pilotage

4. Vessel Particulars (attach a copy of the vessel's certificate of registry and the vessel's insurance coverage):

Name: _____ Registry: _____

Official Number: _____ Call Sign: _____

Telephone Number: _____ Fax Number: _____

Email: _____

Length Overall (LOA) _____ Air Draft: _____

Note: Vessel must be less than 175 feet LOA to qualify for an exemption. (AS 08.62.180b)

International Gross Tonnage: _____ Gross Registered Tonnage: _____

Note: If vessel is subject to AS 46.04, submit current certificate of financial responsibility or copy of a current application for certificate of financial responsibility.

Is a Certificate of Financial Responsibility mandatory for this vessel based on the vessel's gross registered tonnage? YES NO

5. Please indicate the dates and areas of Alaska pilotage waters you intend to visit:

- _____ Southeast Alaska
- _____ Yakutat/Disenchantment Bay
- _____ Icy Bay
- _____ Prince William Sound
- _____ Seward/Resurrection Bay
- _____ Cook Inlet
- _____ Kodiak Island Group
- _____ Alaska Peninsula/Aleutian Islands
- _____ Other

Will the vessel be operating for hire during any of the dates listed above? Where and when?

A vessel with passengers 'for hire' is disqualified from an exemption and the certificate must be surrendered to the Marine Pilot Coordinator prior to boarding such passengers. This does not prohibit the re-application for exemption from pilotage as a pleasure craft without passengers 'for hire.'

Applicants are reminded that Alaska law requires vessels intending to transit Wrangell Narrows, or from Chatham Strait to Sitka (via Peril Strait, Sergious Narrows, Kakul Narrows, Neva Strait, Olga Strait) to employ a state-licensed marine pilot regardless of any pilotage exemption received. (AS 08.62.180(b))

Application for Exemption for Pilotage

6. Names, positions, and addresses of vessel's captain and officers (submit current license for each):

Note: On vessels over 100 feet in length, the captain or master must hold a current mariner's license for the vessel's tonnage. On a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement.

7. List experience of vessel's captain and officers in Alaskan waters to be visited:

8. List the names of those among the vessel's officers and crew who speak English:

9. List the type and quantity of fuel(s) carried on board:

10. Vessel Contact information (list all electronic methods available for contacting the vessel: telephone numbers, fax numbers, satellite phone numbers, email addresses, etc.):



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing

Sean Parnell, Governor
Susan Bell, Commissioner
Don Habeger, Director

PO Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2548 Fax: (907) 465-2974 Website: www.commerce.state.ak.us/occ/pmar.htm

PLEASURE CRAFT OF FOREIGN REGISTRY

In the State of Alaska, a pleasure craft of foreign registry that is 65 feet or longer is required to employ a state-licensed marine pilot while the pleasure craft is in mandatory pilotage waters of the state. [AS 08.62.160]

The operator of a pleasure craft of foreign registry of more than **65 feet** (19.8m) length overall, but less than **175 feet** (53.3m) length overall, may apply for an exemption from the state pilotage requirement. Exemptions are granted by the Alaska Board of Marine Pilots. [AS 08.62.180(b)-(e)]

A "pleasure craft" is defined as "a vessel that does not carry passengers or freight for hire" and "for hire" is described as "when consideration is contributed as a condition of carriage on a vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or other person having an interest in the vessel". [AS 08.62.180(e)]

Application for Exemption: To apply for an exemption from state pilotage requirements for transit as a pleasure craft, the operator of the pleasure craft must complete the attached application form and submit it to the Alaska State Marine Pilot Coordinator at least 30 days before the vessel enters state waters along with the required documentation and applicable fee. [AS 08.62.180(b)]

The application fee is \$250 plus \$50 for each whole foot in length of the vessel that exceeds 65 feet length overall. Overall length is measured from the foremost part of the stern to the aftermost part of the stern, including any fixed projections extending beyond the stem and stern. The application fee is non-refundable. Payment may be made by check, credit card, or money order. [AS 08.62.140(b), 12 AAC 02.010]

The application will be approved or denied within 10 working days from the date of its receipt by the AK Board of Marine Pilots. If additional information is requested from the applicant to complete or clarify the application for exemption, the 10-working-day time period is suspended while the Board is waiting for a response to its request. [AS 08.62.180(b)]

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, and for a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement. [12 AAC 56.115(c)]

If the vessel is required under AS 46.04 to provide proof of financial responsibility, a current copy of the vessel's certificate of financial responsibility must be submitted with the application for pilotage exemption. 12 AAC 56.115(a)(H)]

The operator of a pleasure craft seeking an exemption from state pilotage requirements must employ a vessel agent from the register of agents maintained by the Board, and ensure the vessel is equipped with the following: [12 AAC 56.115(a)(2)]

- (a) a class A or B automatic identification system (AIS); and
- (b) radar; if the vessel is over 125 feet long, the radar must be ARPA capable; and
- (c) a depth sounder with depth alarm; and
- (d) a magnetic compass with a deviation table issued not later than one (1) year before the date of application for an exemption; and
- (e) one or more VHF radios capable of simultaneously monitoring Channels 13 and 16; and

(f) for each area of the state to be transited, current copies of each of the following:

- all applicable nautical charts
- applicable *Coast Pilot(s)*
- tide tables
- tidal current tables
- *Southeast Alaska Voluntary Waterway Guide* (if traveling Southeast region)
- *Tongass Narrows Users Guide* (if traveling Tongass Narrows)
- vessel transit system regulations (if traveling Prince William Sound)

If a pleasure craft of foreign registry of more than 65 feet overall length enters compulsory pilotage waters without a pilot or a pilotage exemption, the operator of the pleasure craft will not be granted a subsequent pilotage exemption until the operator provides the AK State Marine Pilot Coordinator satisfactory documentation detailing the pleasure craft's entry into compulsory pilotage waters and all subsequent voyages in violation of Alaska law, and pays the appropriate charges for pilotage services which should have been used. [12 AAC 56.115]

Conditions of Operation: An exemption granted by the Board will be confirmed in writing and a certificate provided. A pleasure craft is not exempt from state pilotage requirements until the vessel operator has received their certificate. The operator of the vessel must **retain the exemption certificate on board** while the vessel is in state waters. An exemption from state pilotage requirements is valid for one year from the date on which the exemption was issued, unless surrendered by the applicant or revoked by the Board. [AS 08.62.180(b)]

While **underway** in compulsory pilotage waters, the master of a pleasure craft with a current pilotage exemption must ensure the following: [12 AAC 56.115(d)]

- (1) the vessel transmits via an automatic identification system (AIS) the vessel's name, length, beam, draft, course, speed, and destination;
- (2) an individual who speaks and understands English is present on the bridge;
- (3) the vessel crew simultaneously monitors VHF radio channels 13 and 16; and
- (4) while the vessel is transiting the Prince William Sound VTS lanes, the vessel master is present on the bridge.

A pilotage exemption does not exempt a vessel from the requirement to employ a state-licensed marine pilot while the vessel is in **Wrangell Narrows** or in the waters between **Chatham Strait and Sitka via Peril Strait**. [AS 08.62.180(b)]

A pilotage exemption may be revoked if the vessel is not operated in a manner that is appropriate to protect human life, property, and the marine environment, if the vessel violates the terms of the exemption, or if the vessel does not comply with all applicable local, state, and federal laws. [AS 08.62.180(b)]

The operator of a pleasure craft of foreign registry more than **125 feet overall length** but **less than 175 feet overall length** that has received a pilotage exemption shall employ a state-licensed marine pilot from initial entry into state compulsory pilotage waters to the first port of call. The marine pilot shall provide navigational and safety information relating to the pilotage region to the operator of the vessel. [AS 08.62.180(d)]

The operator of a pleasure craft of foreign registry more than **65 feet** overall length but not more than **125 feet overall length** that has received a pilotage exemption shall proceed upon its initial entry into state waters to the first port of call to receive navigational and safety information from the registered vessel agent employed by the operator of the vessel. [AS 08.62.180(c)]

The owner or operator of a pleasure craft of foreign registry that fails to employ a state-licensed marine pilot as required is punishable by a fine of up to \$10,000 for each violation. [AS 08.62.040(f)]

Assistance: Contact the Alaska Marine Pilot Coordinator at (907)465-2548 phone, fax (907)465-2974 or email: renda.heimbigner@alaska.gov



Alaska Department of Commerce, Community, and Economic Development
Division of Corporations, Business and Professional Licensing
Alaska Board of Marine Pilots
P.O. Box 110806, Juneau, Alaska 99811-0806
Phone: (907) 465-2548 - Fax: (907) 465-2974
Marine Pilot Coordinator: renda.heimbigner@alaska.gov

For Office Use Only

Application for Exemption from Pilotage
Requirements for Pleasure Craft of Foreign Registry
of More Than 65 Feet Overall Length
but Less than 175 Feet Overall Length

1. Operator of Vessel:

Name: _____

Address: _____

Telephone: _____ Email: _____

2. Owner of Vessel (applicant):

Name: _____

Address: _____

Telephone: _____ Email: _____

3. Vessel Agent Information:

The following Vessel Agent has been employed:

Vessel Agent Name: _____

Registration Number: _____ Phone: _____

4. Vessel Particulars (attach a copy of the vessel's certificate of registry and the vessel's insurance coverage):

Name: _____ Registry: _____

Official Number: _____ Call Sign: _____

Telephone Number: _____ Fax Number: _____

Email: _____

Length Overall (LOA): _____ Air Draft: _____

NOTE: Vessel must be less than 175 feet overall to qualify for an exemption; AS 08.62.180(b).

International Gross Tonnage: _____

Note: If vessel is subject to AS 46.04, submit current certificate of financial responsibility.

5. Please indicate the dates and areas of Alaska pilotage waters you intend to visit:

_____	Southeast Alaska
_____	Yakutat/Disenchantment Bay
_____	Icy Bay
_____	Prince William Sound
_____	Seward/Resurrection Bay
_____	Cook Inlet
_____	Kodiak Island Group
_____	Alaska Peninsula/Aleutian Islands
_____	Other _____

Will the vessel be operating for hire during any of the dates listed above? Where and when?

A vessel with passengers 'for hire' is disqualified from an exemption and the certificate must be surrendered to the Marine Pilot Coordinator prior to boarding such passengers. This does not prohibit a re-application for exemption from pilotage as a pleasure craft without passengers 'for hire.'

Applicants are reminded that Alaska Law requires vessels wishing to transit Wrangell Narrows, or from Chatham Strait to Sitka (via Peril Strait, Sergious Narrows, Kakul Narrows, Neva Strait, Olga Strait) to employ a state-licensed marine pilot regardless of any pilotage exemption received. AS 08.62.180(b).

6. Names, positions, and addresses of vessel's captain and officers (**submit current licenses for each**):
(On a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement)

7. List experience of vessel's captain and officers in Alaskan waters to be visited.

8. List the names of those among the vessel's officers and crew who speak English:

9. List the type and quantity of fuel(s) carried on board:

10. Indicate the following navigational tools aboard the vessel:

- AIS: ___ Class A MMSI Number _____
 ___ Class B Depth Sounder with depth alarm RADAR: ARPA capable ___ Yes ___ No
- Magnetic Compass; Date of deviation table: _____
- VHF radio(s) capable of simultaneously monitoring Channels 13 and 16
- Coast Pilot 8; Dated: _____
- Coast Pilot 9; Dated: _____
- Current tide table(s) _____ Dated: _____
- Current tidal current table(s) _____ Dated: _____
- Southeast Alaska Voluntary Waterway Guide*; Dated _____
- Tongass Narrows Users Guide*; Dated _____
- VTS regulations for Prince William Sound and Valdez; Dated _____
- Current nautical chart to scale for each area in the state to be transited, or electronic equivalent

11. Vessel contact information (list all electronic methods available for contacting the vessel including VHF frequencies, telephone numbers, fax numbers, satellite phone numbers, e-mail addresses, etc.):

I understand that only pleasure craft may obtain an exemption from mandatory state pilotage requirements. A "pleasure craft" is "a vessel that does not carry passengers or freight for hire." "For hire" means "for consideration contributed as a condition of carriage on a vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or other person having an interest in the vessel". AS 08.62.180(e).

I have read and understand the conditions of operation and underway requirements while holding a current pilotage exemption.

I hereby certify that the vessel _____ will not be carrying passengers or freight for hire during the time periods for which an exemption had been sought in this application. I further certify that all of the information provided above is true and accurate to the best of my knowledge.

False statements on this application constitute unsworn falsification under AS 11.56.210, punishable by a fine of up to \$10,000 and up to one year in jail. AS 12.55.035(b)(5), 12.55.135(a).

Signature Date

Printed Name Position_ Representing

State of Alaska
Department of Commerce, Community, and Economic Development
Division of Corporations, Business and Professional Licensing
PO Box 110806, Juneau, Alaska 99811-0806
Phone: (907) 465-2548
Fax: (907) 465-2974

CREDIT CARD PAYMENT
For Foreign Pleasure Craft

Owner of vessel (applicant): _____

Name on credit card (payor): _____

Vessel Name: _____

I wish to make payment by credit card for the following:
(check any that apply)

Amount

- Exemption Application Fee _____
- Fine _____
- Other (specify): _____ _____

Signature of
Credit Card holder: _____

Print Name on Credit Card: _____

Complete Mailing Address: _____

Telephone Number: _____

Credit Card Type *(check one)*: VISA MASTER CARD

Card Number: _____

If Visa, provide the 3-digit V-Number: _____
(The V-Number is the last 3 numbers on the back of the card, usually on the signature line.)

Expiration Date: _____

Completion of this form is not proof of payment until the division processes the information contained herein. If any information on this form is illegible, the form will be rejected.

21:40

RESOLVED to go out for 30-day public comment on the proposed regulations, pending incorporation of aforementioned criteria.

Mr. Thayer took this opportunity prior to proceeding to Item 4 to recognize outgoing Board member Mr. Robert Arts for his 10 years of service to the Alaska board of Marine Pilots. Mr. Arts was presented with a Certificate of Appreciation and accompanying Letter of Appreciation signed by Governor Sean Parnell. Mr. Arts was also presented with a Certificate of Appreciation signed by members of the Board.

Agenda Item 4

Proposed Regulations: 12 AAC 56.115 Pleasure Craft Exemptions

23:50

Mr. Thayer outlined the process the Board would use in addressing these proposed regulations: each regulation amendment would be addressed individually by Mr. Don Habeger, Director of the Division of Corporations, Business and Professional Licensing (CBPL); public comment would then be heard; the Board would then discuss the proposal; then the Board would vote on the proposed regulation before proceeding to the next proposed regulation.

Mr. Habeger directed the Board to the CBPL's Memorandum dated February 16, 2012 which reiterated the Division's position that the proposed regulations are aligned under the Governor's call for proactive support to Alaska's entrepreneurs and small business owners. Mr. Habeger presented the first proposed regulation, 12 AAC 56.115(a)(3)(H), and noted that DEC and the MPC had a close working relationship to facilitate the processing of pilot exemption applications. Mr. Habeger stated that DEC, to their knowledge, had not denied an application for Certificate of Financial Responsibility (COFR) to a foreign pleasure craft (FPC). CBPL wanted to institute a process whereby a copy of the FPC's application for a COFR will suffice to begin processing an application for pilot exemption. Mr. Habeger reiterated that if the COFR is not granted, the Board can still withhold or revoke the FPC's pilot exemption application.

32:15

Mr. Richmond asked for clarification how a COFR is acquired by a vessel owner. Discussion followed. The COFR is proof that the vessel owner has the resources to address an environmental mishap the vessel is responsible for.

Captain Arzt asked what mechanism is in place to ensure that the FPC owner has a COFR when the Board grants the FPC a pilot exemption.

Mr. Habeger replied that instances of a FPC requiring a COFR and a pilot exemption on short notice are a small subset of the overall volume of FPC applications. In addressing these circumstances MPC will work with DEC toward a process to make it as smooth as possible.

Captain Arzt stated that the pilot organizations have no role in the process of ensuring that FPCs coming into Alaska meet this COFR requirement. Captain Arzt wanted assurance that a prudent procedure would be implemented so that if the exemption was granted using an application for a COFR, there would be follow-up to confirm that the FPC did in fact receive a COFR.

36:40

Mr. Schrock pressed Mr. Habeger for more detail on the practical level for how such a procedure might work.

Mr. Habeger cited that the MPC may suspend the application until enough information had been gathered to forward to the Board for vote.

Captain Arzt commented that a FPC coming into state waters without a COFR was more of a DEC component than a Board of Marine Pilots component.

Mr. Arts remarked that if the FPC came into state waters without applying for a pilot exemption, the COFR would still be DEC responsibility. The Board's connection to this process rests in the application for exemption.

Captain Arzt said he has a problem granting an exemption for a FPC that is in state waters, when a component requirement is external to the FPC exemption application process. He wanted elaboration for how that check and balance would be achieved.

Mr. Habeger responded that MPC would be responsible for double-checking with DEC to ensure that all is in order prior to forwarding the application to the Board.

42:00

Mr. Erickson noted that there are guidelines already in place for forwarding applications for Board approval. He understood that this proposed regulation will allow both the COFR application and the pilot exemption application to proceed simultaneously. Mr. Erickson said it will be the Board's decision whether to grant, deny, suspend, or revoke a FPC's pilot exemption application or certificate.

Captain Collins requested confirmation that the department (DCCED) is comfortable with CBPL recommending to the Board that it grant an exemption to a foreign yacht with a COFR pending; that the foreign yacht may sail in state waters with a pilot exemption and no approved COFR.

Mr. Habeger replied that DEC has its processes and it is responsible for the COFR; and that CBPL, as a licensing division, is looking at the process for all professionals in the field.

Captain Collins stated that a master or owner that enters state water without a COFR, or doesn't know he needs one, and so does not have one pre-approved is not much of a professional.

44:50

Mr. Richmond asked whether a vessel transiting through other state or sovereign waters will have to show a COFR prior to visiting Alaska.

Captain Collins replied that the vessel owner may have a COFR, but may not have filed it with the State of Alaska, a procedural process that is mentioned in the *Coast Pilot*.

Captain Arzt reiterated that his central concern is the process whereby the COFR is approved so that the requirements for the exemption are met. Captain Arzt opined that the burden of notification that the COFR has been approved should be on the FPC applicant. He noted that nothing in the regulation addresses how that approval will get transmitted to the Board.

48:15

Mr. Thayer called for public comment on the proposed regulation, advising the public to keep comments under three minutes.

Captain Bob Winter (SEAPA) addressed the Board. He stated that two years ago the FPC committee, acting upon the Attorney General's advice to the Board that the application criteria had to include objective requirements. The FPC committee recommended that the FPC master had to have a COFR in hand. He referred to Captain Collins' comment that any competent master will consult the *Coast Pilot* before entering an unfamiliar area. He said that he had a problem with vessel masters that claim they did not know they needed a COFR. He suggested that the FPC master could type out the COFR application online, never submit it, but receive his pilot exemption and travel in state waters without ever having applied for a COFR. Captain Winter cited the *Rainbow Warrior*, which entered state waters approximately six years ago with no COFR, spilled oil, and then left the state to cover clean-up costs. He said there have been multiple FPC exemption violations since 2003 and the Board has been very remiss in doing anything about it. He also voiced concern about the COFR being a DEC issue, while the exemption is a Board issue. Under the existing statute, the FPC must apply for an exemption 30 days prior to entering state waters – more than enough time to get a COFR. Further, if these masters are professionals, they will know this and take care of it ahead of time. Captain Winter concluded that this proposed change puts the state at risk and the onus of confirming the approval of a COFR on the MPC.

52:30

Mr. Thayer asked the Board if there were any questions for Captain Winter. Mr. Richmond asked Captain Winter what we know about the training and experience of these foreign pleasure craft captains. Captain Winter replied, "Zero." Mr. Richmond then asked whether we assess how the FPC masters compare to the skill level of the state licensed pilots.

Captain Arzt agreed with Captain Winter that the issue of a pilot on board and the issuance of an exemption is a separate issue from the COFR discussion.

Mr. Erickson asked Captain Winter how times DEC has rejected an application for a COFR. Captain Winter referred to Mr. Habeger's statement that as far as he knew DEC has not rejected an application for a COFR. Mr. Erickson said that according to this language, prior to the exemption application going forward to the Board a copy of the COFR application has to be reviewed by MPC, and also that DEC has not rejected a COFR in the past. Captain Winter replied that there is no implicit requirement for proof that the COFR application actually went forward to DEC.

55:30

Mr. Thayer reminded the floor that public comment is for testimony. The next testimony was delivered by Ms. Kate Tesar.

Ms. Tesar, representing the Alaska Steamship Association (ASA), noted that most of the written public comments were from the pilots, with only a couple of comments provided by industry. Ms. Tesar prefaced her statement, in support of the proposed regulation, referencing ASA's attempt in the previous year to contact the chairman of the FPC committee to discuss issues relevant to these proposed regulations, though the chairman declined to meet. Ms. Tesar pointed to DEC's exemplary record with regards to the processing of COFRs. She said that both the COFR and the pilot exemption process usually take place at the same time. Ms. Tesar asserted that the COFR issue is a DEC concern, and its timeline should not hold up the processing for a pilot exemption.

59:15

Captain Richard Gurry, President of SEAPA, provided a statement for the record. The main points he raised were: 1) these proposed regulations weaken state pilotage regulations for the first time in the history of the state; 2) they lower basic safety standards, which is precisely the wrong message to be sending – one that Alaskans themselves will not want to accept; 3) that highly trained masters still have mishaps; and that the FPC captain may operate with no required training, no required licensing, no penalties, and no approved COFR. Captain Gurry requested that the Board defer this proposed regulation to a process of negotiated regulation-making under AS 44.62.710 because there are a limited number of identifiable interests affected by the proposed regulation and it is likely that a regulation committee convened on the matter will have balanced representation of persons who are interested in the issue.

1:03:29

Mr. Thayer asked the Board if there were any questions, comments for Captain Gurry. Mr. Thayer asked Captain Gurry whether a pilot has ever made an error that has caused damage to the marine environment in the State of Alaska. Captain Gurry indicated that has happened.

Mr. Richmond asked for clarification on the data concerning training of yacht captains. Captain Gurry replied that current regulation requires a minimum license level been shown by FPC master for the class of vessel that he is on.

Mr. Richmond stated that Captain Gurry's comments attest to the level of training state-licensed pilots have, but do not address the level of training that the FPC captain has because there is no data to form a basis for comparison.

1:06:00 Mr. Schrock asked MPC whether the only way the Board will be engaged in the COFR discussion will be if the FPC has been identified as requiring a COFR through its application for a pilot exemption. MPC affirmed Mr. Schrock's assessment of the process.

1:07:30 Mr. Paul Axelson (YSA) said that YSA handles approximately 90% of the yachts that come to Alaska, and not all yachts that come to Alaska follow the timeline that would provide for the timely processing of a COFR and then a pilot exemption. These are two separate issues (issuance of a COFR and issuance of a pilot exemption) that should be kept separate. He emphasized that the Board's decision to grant a pilot exemption should not be inhibited by a pending application for a COFR. Mr. Axelson concluded his comments urging passage of this proposed regulation.

1:10:05 Captain Joe Martin, SWAPA Secretary and Treasurer, said that FPC masters that require a COFR should at least have the knowledge that they need a COFR prior to entering state waters. Captain Martin cited the U.S. Coast Guard website that explains a COFR is issued to a vessel operator who has demonstrated his ability to pay for the clean-up and damage costs up to a liability that regulations require. It is not a statement of responsibility; it proves the owner has the capacity to pay for the damage done. He said under this proposed regulation an FPC may come in, do damage, and be unable to pay. Captain Martin concluded with a quote from the public comment letter submitted by the American Pilots' Association: "allowing an applicant for a pilot exemption to have merely submitted an application for a COFR effectively eliminates the COFR as a prerequisite for a pilotage exemption certificate."

1:11:30 Mr. Thayer opened the Board to discussion on the proposed regulation.

Captain Collins wanted confirmation from the Department (CED) that it supports this proposed regulation, and further that DEC supports it as well, because should a worse-case scenario accident occur it will be profoundly embarrassing to the Board. Captain Collins said that he would vote against this proposed regulation as it currently reads.

1:15:30 Mr. Thayer stated that the Board represents the State of Alaska, and that his concern is being addressed at the moment.

Mr. Erickson said that all the Board is considering is whether to allow the FPC to apply for the pilot exemption without the COFR in hand.

1:19:05

Captain Arzt noted that the provisions of 12 AAC 56.115(a)(3) all stipulate conditions that must be met, and that including this proposed regulation will qualify a copy of a COFR application as a condition that must be met, with no mention of approval for that COFR. He said that he supports having the exemption application proceed forward, up to the day a vessel enters state water. He stated that the language was flawed, but he did not think there needed to be any changes to it, so long as it was understood that the COFR application had to be approved prior to granting a pilot exemption.

Discussion followed regarding criteria for processing an application for pilot exemption. Mr. Erickson requested that Mr. Axelson approach the Board to clarify the processing of a pilot exemption package. Specifically, could Mr. Axelson confirm that the MPC needed a COFR in hand before going forward with an application for a pilot exemption.

1:23:35

Mr. Axelson stated that the previous MPC held up the application for pilot exemption if the FPC did not have the DEC-issued COFR; the application for pilot exemption was not allowed to move forward without that certificate, and he thought it was a reasonable determination based on the language in the regulation.

Mr. Schrock supported the concept of allowing both application processes to progress at the same time, although the pilot exemption certificate should be contingent on the DEC's approval of a COFR. He said that the focus of the discussion should be on the application process, so that Board members may approve an application contingent on confirmation of the COFR.

Mr. Thayer asked if the Board was ready to move for a vote.

1:27:55

On a motion by Mr. Richmond, seconded by Mr. Arts, the Board APPROVED proposed regulation 12 AAC 56.115(a)(3)(H) with a 5-2 roll-call vote:

Mr. Schrock	Yea
Mr. Erickson	Yea
Mr. Arts	Yea
Captain Collins	No
Captain Arzt	No
Mr. Richmond	Yea
Mr. Thayer	Yea

Mr. Schrock requested clarification for where in the process there would be the assurance that no pilot exemption would be issued without confirmation of a DEC-approved COFR. Mr. Thayer asked Mr. Habeger to approach the Board and clarify CBPL's intended policy addressing the issue of contingent approval.

Mr. Habeger offered that CBPL would work on the internal process in conjunction with DEC that will provide the assurance that the Board will have confirmation of an issued COFR prior to the granting of a pilot exemption.

1:31:30

Mr. Thayer proceeded to address the second proposed regulation, 12 AAC 56.115(a)(4), which would add a new paragraph directing MPC to use a vessel's length-over-all as the standard for assessing application fees. MPC may use a copy of the vessel's registry in this assessment. Mr. Thayer invited public testimony from the audience in attendance.

Captain Joe Martin (SWAPA) stated that the Legislative Audit of the Board of Marine Pilots dated November 18, 1998 Recommendation (2) advised that the Board should consult Department of Law regarding the practicality of enforcing the current piloting exemption statutes. After such consultation the Board should develop proposed statutory changes for consideration by the Legislature. Captain Martin asked the Board if that recommendation was in practice. Mr. Thayer affirmed that Department of Law is consulted in matters of statutory proposals.

1:35:10

Mr. Thayer asked the Board members if there was any discussion on the proposed regulation.

On a motion by Mr. Richmond, seconded by Mr. Arts, the Board APPROVED proposed regulation 12 AAC 56.115(a)(4) with a 6-1 roll-call vote:

1:37:00

Mr. Schrock	Yea
Mr. Erickson	Yea
Mr. Arts	Yea
Captain Collins	No
Captain Arzt	Yea
Mr. Richmond	Yea
Mr. Thayer	Yea

Mr. Thayer read the third proposed regulation, 12 AAC 56.115(b), then requested Mr. Habeger approach the Board to explain CBPL's position.

1:39:25

Mr. Habeger explained that CBPL's position strengthens the Board's power to assess fines, and that the Legislature recognizes that a FPC operating in violation of AS 08.62 is a serious offense, it articulated in statute directing a fine up to \$10,000 (AS 08.62.040(f)), whereas Title 8 Centralized Statutes for all other professions, unless specifically mentioned, directs a maximum fine up to \$5,000.

Mr. Habeger stated that the Board of Marine Pilots is the only program that assesses fines and a third party is paid. He said that the onus is on the Board to assess fines to FPCs that are in violation.

1:42:25

Mr. Thayer invited public comment restricted to this proposed regulation.

Captain Winter (SEAPA) stated his objection to the proposed regulation is the deletion of the provision that allows the pilot organization access to the FPC's track data with regard to the violation, which allows the pilot organization to bill the owner of the vessel for pilotage services. Captain Winter commented on an occasion two years ago where a FPC was issued an exemption, ran a charter operation under this exemption, and when the master was sanctioned for operating in violation of his exemption the fine amounted to \$3,500. The vessel left the state without paying.

Mr. Thayer asked Captain Winter where this instance occurred. Captain Winter replied it happened approximately three years ago. Captain Winter related another instance during the summer of 2011 where a large sailboat was operating a charter with a pilot exemption and the vessel was neither sanctioned nor fined. Captain Winter mentioned that when the Yacht Committee developed its list of applicant requirements the intention was that an exemption could not be issued until the checklist was completed. In many instances the previous MPC contacted the FPC and requested more information before submitting the applicant's package to the Board.

1:48:25

Ms Tesar (ASA) provided comment from a prepared statement that highlighted the following points: 1) there are already substantial layers of penalties in place in Alaska law for yachts that attempt to operate in compulsory pilotage waters in Alaska without a pilot; 2) past administrations have decided against pursuing fines or penalties against most yacht owners found to be in violation of pilotage statutes; 3) instead, only the pilot organizations have been guaranteed payment; 4) neither agents or pilot groups have any idea how many yachts will be coming to Alaska in any given season, therefore billing for pilot services not rendered is extra, unanticipated income; and 5) in no other instance in Alaska are fees in lieu of fines for violations of state statute collected by private-for-profit organizations.

1:51:50

Captain Gurry, President of SEAPA, stated that SEAPA does take into account the number of yachts that come into Southeast Alaska for manning requirements. Also, SEAPA does not always bill the yachts for unfulfilled piloting service.

Mr. Thayer explained to Captain Gurry that by Supreme Court ruling, a pilot organization is allowed to bill a client for pilotage services that were not rendered, and that as the regulation stood, the state was in an awkward position where it was enforcing payment to a third party when that ability to collect is already provided for in the Supreme Court ruling.

1:55:25 Mr. Richmond asked how many yachts SEAPA was anticipating for the summer. Captain Gurry replied that the expectation was between five and ten full-time yachts.

1:56:35 Captain Joe Martin (SWAPA) provided comment in response to Ms. Tesar's testimony, stating that the fee structure is of no consequence to the FPC in violation unless they get caught. Captain Martin mentioned that the pilot organization puts a maritime lien on the vessel, which strengthens the state's position toward recovering assessed fines.

1:59:25 Mr. Thayer opened the proceedings to Board discussion.

Mr. Schrock requested clarification for proposed regulation deletions. Mr. Habeger said that the only proposed for deletion is "(2) PAYS THE APPROPRIATE CHARGES FOR PILOTAGE SERVICES IN ACCORDANCE WITH 12 AAC 56.205(a), (b), (c), or (d)].

Captain Arzt enquired about the status of the proposed "matrix" directed during the previous Board meeting in Seward on November 9, 2011. Mr. Habeger replied that CBPL had done some preliminary work toward a draft matrix, however was not refined enough for presentation at this meeting.

Captain Arzt questioned what was significant about this proposed regulation that would further empower the state's ability to enforce maritime commerce. Mr. Habeger replied that historically the Board has not been inclined to impose fines, in part because the third party was collecting monies. Mr. Habeger said that this proposed regulation puts the Board in control, state policy is served, while 12 AAC 56.205 (Availability of Pilots) provides a mechanism for the pilot organizations to consider collection for pilotage services based on their availability to service the pleasure craft.

Mr. Thayer clarified that the proposed deletion does not prevent the pilot organization from billing the FPC.

2:04:10 Captain Arzt commented that the referenced regulation, 12 AAC 56.205, only takes into account the availability component.

Mr. Richmond asked Mr. Thayer if his reference to Supreme Court ruling in favor of the pilots was an 1851 Supreme Court case. Mr. Richmond described the 1851 Supreme Court case as the ruling that Pennsylvania pilots could bill for services not rendered, and further explained that the fees collected went toward a fund for decayed pilots.

2:06:50 Captain Collins stated that he would have to RECUSE himself from a vote on this proposed regulation owing to a financial conflict of interest. Mr. Thayer asked Captain Collins to explain his conflict of interest. Captain Collins replied that if he votes for it he is also voting in his financial interest, because statute already allows for it. He said that he participated in the conversation, but he wanted the record to show that he abstained from the vote.

Captain Arzt referenced Ms. Tesar's statements noting that the majority of opposing public comments were submitted by pilots. He said that three individuals – two of them former Board members – that submitted letters were not pilots. Captain Arzt also questioned how Ms. Tesar knew which pilot groups were paid or not paid for services rendered.

Mr. Schrock commented that this proposed regulation does not take away the pilots' ability to exercise their rights, and that deterrence is the proper role of the Board, and this proposed regulation does strengthen the Board's initiative.

2:10:20 On a motion by Mr. Schrock, seconded by Mr. Richmond, the Board APPROVED proposed regulation 12 AAC 56.115(b) with a 5-1 roll-call vote:

Mr. Schrock	Yea
Mr. Erickson	Yea
Mr. Arts	Yea
Captain Collins	Abstain
Captain Arzt	No
Mr. Richmond	Yea
Mr. Thayer	Yea

Mr. Thayer read the fourth proposed regulation, 12 AAC 56.115(c), then requested Mr. Habeger approach the Board to explain CBPL's position.

2:12:10 Mr. Habeger stated that this proposed regulation is a matter of parity regarding the master's credentials on both US and non-US pleasure craft. He referenced Coast Guard Sector Juneau's Commanding Officer, Captain Bornemann's letter in public comments, which stated that there are not many requirements. Mr. Habeger presented that there were no specific requirements for the master onboard a US-flagged pleasure craft, and the same policy should be extended to non-US-flagged pleasure craft.

Mr. Thayer invited public comment restricted to this proposed regulation.

Captain Winter (SEAPA) approached the Board and stated his opposition to this proposed regulation. He said that the original provisions were put into the regulation to prevent wealthy, but inexperienced, foreign yacht owners from coming into state waters without oversight. The FPC committee settled for a

license commiserate to the tonnage of the vessel, which would require some training in navigation and shiphandling, etc. The RADAR requirement came from the USCG requirement for any vessel over 100 GT. If the master has a STCWS certificate then he also has the RADAR endorsement.

Ms. Kate Tesar (ASA) provided comment from a prepared statement that highlighted the following points: 1) the Coast Guard establish or regulate qualifications, requirements or minimum manning levels for any recreational vessel at all, whether US or foreign flagged; the current endorsement goes far beyond what the US Coast Guard requires of any pleasure craft operators; 3) many experienced private yacht owners, particularly in the owner/operators category, most certainly will not have these licenses or endorsements; 4) and, the state has benchmarks in place that allows the Board to review qualifications and operational conditions that must be met prior to the issuance of a pilotage exemption. The state rightfully requires these foreign pleasure craft to be private, yet these owners are currently being held to the standards of a commercial vessel by the need for a mariner's license and the radar observer endorsement.

2:18:30

Mr. Paul Axelson (YSA) referred to AS 08.62.180 Exemptions, which describes the LOA categories and corresponding pilotage requirements. Mr. Axelson stated that this regulation might be responsible for single-handedly turning FPCs away from Alaska waters because most masters of 70 or 100 foot yachts do not hold the required mariner's credentials, though they may be very experienced. He said that "valid RADAR endorsement" is a US requirement that many foreign masters cannot obtain unless they get certified in the US. Even if the FPC master had the tonnage credential, he would not have this endorsement. Mr. Axelson said that currently the state is making the FPC owner attest that his vessel is not commercial, but then holds the master to the same licensing standard as a commercial vessel. Mr. Axelson stated his support to the proposed regulation.

2:21:50

Captain Gurry, President of SEAPA, said that the RADAR endorsement is not just a US requirement. It is an international STCWS requirement.

Captain Martin (SWAPA) said that his interpretation of this proposed regulation is that a master will be required to have a USCG license. He said that the verbiage is flawed.

Mr. Thayer opened the proceedings to Board discussion.

2:22:45

Mr. Richmond queried whether insurance underwriters actively looked into the credentials of their policy holders prior to taking them on. Mr. Richmond also asked whether Coast Guard vessels had licensed or endorsed personnel onboard its cutter fleet.

Mr. Robert Arts offered that from his experience insurance underwriters require the master of a vessel to disclose his mariner's qualifications as part of his liability disclosure.

Mr. Schrock commented that the proposed amendment seems to be an argument of no distinction, in that it seems to effectively remove any requirements for the master of the FPC, and that the proposed language does not provide clarity for what qualifications the master is expected to have. Mr. Schrock said he is hesitant to require things of individuals that should not be required, as he is to remove an existing requirement.

2:27:15 Captain Arzt said this proposed amendment has not been vetted sufficiently. Captain Arzt said he would move to table this proposed amendment and that it gets put forth to the existing FPC committee.

Mr. Thayer asked Captain Arzt if he wished to move to table this proposed regulation and refer it to the FPC committee. Captain Arzt agreed.

2:29:00 On a motion by Captain Arzt, seconded by Mr. Schrock, the Board unanimously voted to TABLE proposed regulation 12 AAC 56.115(c) and REFER it to the FPC committee for vetting.

At 1105 Mr. Thayer recessed the Board until 1120.

2:31:10 Mr. Thayer called the Board of Marine Pilots back on the record at 1120.

Agenda Item 5 Proposed 2012 SEAPA Rate Schedules

Mr. Thayer referenced letters in the Board packet; and requested that Captain Gurry (President of SEAPA) and Mr. Axelson (North Pacific Maritime) approach the Board and provide an update.

Captain Gurry said that SEAPA and members of industry were in negotiations and had agreed upon a self-imposed deadline of March 15, 2012, indicating that was sufficient time to work out differences. Captain Gurry requested that the Board table this item under representatives of industry and SEAPA come to an agreement on this issue, with March 15th as the deadline.

Mr. Axelson concurred with Captain Gurry.

2:33:10 Mr. Thayer said that the Board would expect a progress update from SEAPA and industry after March 15th.

Agenda Item 6 Wrangell Narrows Pilot Station