

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

**MINUTES OF MEETING  
October 27-28, 1999**

**B**y the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held held October 27-28, 1999, in Anchorage, Alaska.

**10/27/99**

Examinations were conducted from 0830 - 1200 as listed below:

Captain John Webb - Kodiak Island Group  
Captain Scott Jones - Region 1 Local Knowledge  
Captain Karl Luck - Region 1 Local Knowledge  
Captain Jim Cathcart - Region 1 Local Knowledge

Start Tape 1, Side A

**Agenda Item 1**

**Call to Order/Roll Call**

Chairman Bush called the meeting to order at 1350. The Marine Pilot Coordinator (MPC) conducted roll call. Members present constituting a quorum were:

Mr. Jeff Bush	-	Commissioner's Designee
Captain Pete Garay	-	Pilot Member
Captain Michael Spence	-	Pilot Member
Mr. Bob Berto	-	Agent/Vessel Manager Member
Mr. Michael White	-	Public Member

Staff present: Peter Christensen, (MPC)

**Not Present:**

Ms. Huff Tuckness - Public Member (absent)

**Agenda Item 2**

**Review/Set Agenda**

The agenda was accepted without amendment.

On a motion made by Mr. Berto, and carried unanimously, it was

RESOLVED to approve the agenda as submitted.

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

Ken Truitt Joined Meeting via Teleconf      Captain Spence declared a potential need to recuse himself from participating in the oral examination of any of today's potential licensees for the SE Region. He also declared a potential need to be recused from the Board's discussion of the changes to ACP's Bylaws that were before the Board.

Chairman Bush ruled that he would recuse Captain Spence from consideration of the changes to ACP's Bylaws that were before the Board. In consultation with Mr. Truitt, Chairman Bush decided that Captain Spence could participate in the discussion of the examinations, but that Captain Spence would be recused (subject to any quorum issues) from the final motion on whether to approve any new Region 1 licensees.

**Agenda Item 4**      **Investigation/Litigation Update**

Mr. Truitt related that the discovery phase in the Proteus litigation should end in January. Subsequent to the Discovery closing, both parties will be filing dispositive pre-trial motions. Additionally a trial setting conference has been set for November 18, 1999.

In the matter of Captain Renwick, a hearing to be heard before the Hearing Officer is scheduled for November 8-10, 1999.

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

The Board discussed whether any changes needed to be made to the minutes before their approval. One typographical error was noted regarding the correct spelling of Captain Baken's name on page 1.

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

RESOLVED to adopt the July 1999 teleconference minutes as corrected.

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

The MPC reported to the Board that Captain John Webb took and passed the Extension of Route Examination for Kodiak Island Group.

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

RESOLVED to approve the issuance of an extension of route endorsement for Kodiak Island Group to Captain Webb.

The MPC reported to the Board that Captains Cathcart, Luck and Jones took the Region 1 Local Knowledge Examination. Captain Cathcart passed, and Captain Luck's and Captain Jone's examination scores remain undetermined pending the Board's consideration of their examination protests.

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

RESOLVED to move into Executive session for consideration of Captain Luck's examination protests and to conduct the oral examination of any candidates that passed the Region 1 local Knowledge examination.

The Board entered executive session.

The Board recessed from executive session.

Upon returning from executive session Chairman Bush stated that the Board would return to Executive session at 4:30 PM, when it would complete Agenda Items 7 and 8. This change in the schedule was made to accommodate a meeting of all pilots scheduled for 5:00 PM. The Board proceeded to move on to consider Agenda Items 9 - 11.

**Agenda Item 9**      **Presentation By Captain Hutmacher of MSO Anchorage**

The MPC introduced Captain Hutmacher of Marine Safety Office Anchorage, Alaska. He outlined some of the significant projects ongoing in his zone of responsibility that would be of interest to the pilots.

During his presentation Captain Hutmacher noted his confusion with one of the Board's regulations. All State pilotage regions allow a vessel to proceed into pilotage waters without a pilot if the pilot has not shown up within a specified period of waiting. With the current emphasis on prevention of casualties, Captain Hutmacher stated that despite the need to facilitate commerce, he could not understand why a vessel would be allowed to proceed into State pilotage waters without a State licensed pilot, unless some semblance of an equivalent safety is required. Restrictions that might add to the safety of the vessel's transit without a pilot might be a daylight only transit or transit in good weather only.

**Agenda Item 10**      **Update – Electronic Quarterly Reports**

The MPC stated that all associations were now filing their quarterly activity reports electronically. He noted that he still needed to work with a couple of associations on formatting issues, but that the project was on track.

**Agenda Item 11**      **Update – Examination Data Base**

The MPC reported that all of questions for Region 1 were now input into the examination database and that some of the Region 2 areas have been input as well.

Captain Spence reminded the Board that written guidelines still need to be developed regarding the need, use and maintenance of the examination database.

**Examination Protests**

Before returning to Executive Session and in the interest of keeping everyone informed, Chairman Bush related how the Board had reviewed the protest submitted. The Board reviewed each question that was protested by the candidates that was marked wrong. If a question that an

applicant protested was answered correctly it was not reviewed by the Board.

For those examination questions it did review, the Board reviewed the question, the answer given in the answer key, and in some cases researched the answer. In a few instances the Board decided to offer a replacement question, and on a couple of questions the Board upheld the applicants protest and credited the answer given.

As a result of the Board's deliberations on the protested questions, one candidate was still unsuccessful and one candidate had some replacement questions to take before a final score could be determined.

**Agenda Item 7**      **Oral Examinations**

The Board returned to executive session to conduct the oral examination of Captain Cathcart.

1642      The Board returned from executive session.

**Agenda Item 8**      **Approve Issuance of Original License as Appropriate**

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

RESOLVED to approve the issuance of a Deputy Marine Pilot license of not more than 25,000 GT to Captain Cathcart.

**October 28, 1999**      Board Members Present Constituting a Quorum:

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

Not Present:

Ms. Huff Tuckness - Public Member (absent)

**Agenda Item 12**      **Public Comment**

Chairman Bush asked for any public comment other than comment concerning the simulator project since it would be addressed later in the day. Anyone that might have to leave the meeting before the afternoon session was also invited to comment on the simulator project if they so desired. The following persons gave public comment:

LT Doug Baird, NOAA – gave an update of ongoing NOAA projects.

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

Captain Karl Luck – commented on the exam and examination protest/review procedures.

Mr. Joe Kyle – commented regarding regulations to set pilotage rates; 48 hour notice in SE Alaska; and SE Alaska Pilot Stations.

Mr. Tom Reuter – commented regarding the training surcharge in the recently proposed pilotage rates.

Captain Jeff Baken – commented regarding cooperation between the SE associations, such as the joint safety meeting at the beginning of the season, shared pilotage of the M/V CARRIBEAN MERCY, loan of a pilot from another association, cooperation in training, and the end of season safety meeting. Also the 48 hour notice in SE Alaska; and SE Alaska Pilot Stations.

Hans Antonsen – commented regarding the regulatory process/projects; 48 hour notice in SE Alaska; SE Alaska Pilot Stations; Pilotage Rates.

### **Agenda Item 13**

#### **Regulation Proposals for Consideration**

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

The MPC presented the Board with background and on how “night” was defined under the regulations and the problems inherent in that definition. Following discussion, the Board directed that a draft regulation be drafted for their consideration to further refine the term “night” in the regulations.

The Board went on to discuss creating procedures for noticing pilotage rates. Proposed procedures were drafted and without a formal motion the Board agreed unanimously to notice the proposed procedures.

End Tape 2, Side A

Amendment of 56.205 for SE Alaska (as drafted and included in the Board packet) was discussed next by the Board. Without a formal motion, the Board agreed unanimously to notice the draft regulation amending 56.205(c) as drafted.

Begin Tape 2, Side B

Repeal of pilot stations identified in 12 AAC 56.120(5), (44) & (45) and related cites in 12 AAC 56.110 was then discussed by the Board. Using a chart of SE Alaska, Captain Collins presented to the Board the impact of the proposed pilot station deletions.

1104 – Break

Mr. White departed.

On a motion made by Captain Spence, seconded by Captain Garay and passed by a vote of three to one, it was

1135 – On Record

RESOLVED to notice the proposal to repeal the pilot stations at 12 AAC 56.120(5) , (44) & (45) and repeal the related exclusions for entering pilotage rates cited in 12 AAC 56.110(6)(A), (B), & (C).

End Tape 2, Side B

Start Tape 3, Side A

Chairman Bush invited discussion among the Board and public comment regarding Captain Hutmacher's comments related to the entry of ships into pilotage waters without a pilot when proper notice has been given and a pilot is unavailable.

Mr. White returned

The discussion turned to the merits of the current investigatory and prosecutory authority currently in existence for the Board and its staff. Several pilots and members of industry commented on the history of the current system, regional dispatch problems, other related issues and the impact of denying entrance into pilotage waters without a pilot on board.

After considerable discussion Chairman Bush suggested the formation of a committee to work on the issue. Captain Garay accepted the role of organizing and chairing that committee. Mr. Berto said he or another representative of industry would participate. The remainder of the committee would be filled out with other volunteers. Persons interested in participating on the committee were urged to contact Captain Garay.

Before lunch Chairman Bush noted that although it was not on the agenda, the cost of training and training surcharges in pilotage rates was a topic that the Board may well have to consider in the near future.

1215 - Lunch Recess

1329 - Meeting Resumed

#### **Agenda Item 14      Amendments to ACP Articles, Bylaws & Operating Rules**

Captain Baken led the Board through the proposed amendments to ACP's Articles, Bylaws and Operating Rules.

On a motion made by Captain Garay, seconded by Mr. White and passed unanimously, it was

RESOLVED to approve ACP's amendments to its Articles, Bylaws & Operating Rules as written.

**Agenda Item 8a      Training Pilot Endorsement for Captain Baken**

The MPC explained that Captain Baken had submitted a timely request for an endorsement as a Training Pilot, and that it had been inadvertently omitted from the agenda.

The MPC explained the requirements for a training pilot license and that he had reviewed Captain Baken's file and found that Captain Baken satisfied the requirements. Accordingly, he recommended that the Board approve the issuance of a Training Pilot endorsement to Captain Baken.

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

RESOLVED to approve the issuance of a Training Pilot endorsement to Captain Baken's State Pilot license.

**Agenda Item 15.      Simulator Based Marine Pilot Performance Evaluation**

The following people gave public comment regarding the proposed regulation to implement the simulator based marine pilot performance evaluation and the evaluation program itself.

End Tape 3, Side A  
Begin Tape 3, Side B

Captain Hans Antonsen – As a result of the All Pilot meeting held the previous evening, Captain Antonsen presented an alternative proposed regulation to the Board's. The alternative regulation substitute the phrase "participated in and completed a board approved simulator based pilot performance training" for the phrase "satisfactorily completed a board approved simulator based pilot performance evaluation". emphasis added.  
Captain O'Hara – stated that his association had directed him to speak in favor of the alternative proposed regulation presented by Captain Antonsen. He also spoke in opposition of the Board's proposed program and his concern with RTM STAR Center's implementation of the program.



End Tape 3, Side B Captain Adkison – spoke in opposition of the Board’s proposed program.

Begin Tape 4, Side A Captain Dundas – stated that AMP shares the same concerns as the other associations.

Alaska State Senator Drue Pearce – spoke in support of the program and the Board’s current proposed regulation for implementation. She did note that she thought that the evaluation should occur more often than every six years.

Mr. Joe Kyle – spoke in favor of the Board’s proposed program.

Captain Collins - spoke in opposition of the Board’s proposed program.

End Tape 4, Side A Captain Adkison – spoke in opposition of the Board’s proposed program,  
Begin Tape 4, Side B again.

Captain Grobschmit – asked several specific questions regarding the program.

1531 Break

1558 Meeting Resumed Following public comment, the Board began its own discussion of the proposed regulation. After considerable discussion the Board did not vote or take any other action regarding the alternative proposed regulation, nor did they take any action regarding the proposed regulation they had previously agreed to notice.

End Tape 4, Side B In response to questions regarding the date of the Sea Trials at Dania, the  
Begin Tape 5, Side A Chair asked the MPC to confirm the date as soon as possible with RTM STAR Center and forward it out to the Associations.

**Agenda Item 15. Business Items**

Chairman Bush stated that he would entertain a motion to notice the definition of “night” as developed by the Board and procedures for setting pilotage rates as developed by the Board.

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

RESOLVED to notice a regulation providing procedures for the adoption of pilotage rates as developed by the Board and to further define “night” as agreed upon by the Board.

The MPC presented reports of the Board's legal costs and the Boards budget to date.

The MPC briefly reviewed the correspondence contained in the packet including notices of proposed changes to pilotage rates from SWAPA and AMP.

The Board agreed to set October 25 - 26, 2000 (Wed – Thur) as the October 2000 meeting date.

The Board decided that its next meeting with examinations would be January 26-27, 2000, in Juneau at the Westmark Baranof Hotel and that the deadline to submit applications for examination was November 29, 1999.

**Motion to Adjourn**

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

RESOLVED to adjourn the meeting.

Tape Off

Respectfully submitted:

Peter D. Christensen,  
Marine Pilot Coordinator

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Jeffrey W. Bush,  
Deputy Commissioner