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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jun Maiquis
Department of Commerce, Community and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor
465.4081

A handwritten signature in black ink, appearing to be "CS".

DATE: September 12, 2016

RE: Filed Permanent Regulations: Board of Marine Pilots

Regulations re: qualifications for marine pilots, availability of marine pilots in the Western Alaska Region, and duties of marine pilots regarding collisions, allisions, and groundings (12 AAC 56.029(2); 12 AAC 56.205(b); 12 AAC 56.960(d); 12 AAC 56.990(a)(34))

Attorney General File:	JU2016200264
Regulation Filed:	September 9, 2016
Effective Date:	October 9, 2016
Print:	220, January 2017

cc with enclosures:

Linda Miller, Department of Law
Micaela Fowler, Department of Commerce, Community & Economic
Development
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF MARINE PILOTS

The attached four pages of regulations, dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions, are hereby certified to be a correct copy of the regulation changes that the Board of Marine Pilots adopted at its May 17, 2016 teleconference meeting, under the authority of AS 08.62.040, AS 08.62.100, AS 08.62.160, and AS 08.62.190 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

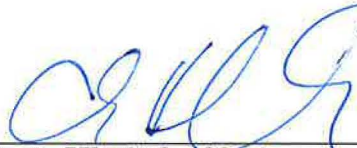
This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Board of Marine Pilots paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE:

5/26/2016
Juneau, Alaska


Chris Hladick, Chairman,
Board of Marine Pilots

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on September 9, 2016 at 2:30p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Byron Mallott, Lieutenant Governor

Effective: October 9, 2016.

Register: 220, January 2017

Chapter 56. Board of Marine Pilots.

12 AAC 56.029(2) is amended to read:

(2) show that the applicant has held a valid deputy marine pilot license in Alaska ^{this state} for a minimum of three [CALENDAR] years while remaining eligible for license renewal during this period of service without use of the familiarization trips under AS 08.62.120; (Eff. 11/1/93, Register 128; am 5/29/96, Register 138; am 3/21/99, Register 149; am 10/24/2002, Register 164; am 10/25/2002, Register 164; am 9/12/2006, Register 179; am 5/26/2007, Register 182; am 1/29/2009, Register 189; am 10 / 9 / 2016, Register 220)

Authority: AS 08.62.040 AS 08.62.100

12 AAC 56.205(b) is repealed and readopted to read:

(b) Except as provided in (d) of this section,

(1) in Akutan of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 48 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. ^(lowercase)) A pilot will be considered unavailable for service only if the 48-hour notice ^{under} required ^{paragraph} by this subsection is given and a pilot does not show up at the vessel to render service. ^(lowercase)) If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 48 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. ^(lowercase)) If the 48-hour notice is not given as required ^{under} by this subsection ^{paragraph} and a pilot is not able to reach the vessel to render pilot

(7)

services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services;

(2) in the Pribilof Islands, Port Clarence, and the Kuskokwim Bay Region of the including Bethel, Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot

organization of a vessel movement at least 96 hours before the movement in order to provide

sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 96-hour notice required by this subsection is

given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 96

hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the

vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in

attempting to reach the vessel. If the 96-hour notice is not given as required by this subsection

and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner

may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel

and the pilotage charge and all other charges that would have been incurred had the pilot reached

the vessel and provided pilotage services;

(3) in all other locations of the Western Alaska Region, an agent, owner, or

master of a vessel shall inform the appropriate pilot organization of a vessel movement at least

72 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel

by the available means of transportation. A pilot will be considered unavailable for service only

if the 72-hour notice required by this subsection is given and a pilot does not show up at the

vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot

attempts to reach the vessel but cannot do so within 72 hours due to factors beyond the pilot's

control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be

charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 72-

hour notice is not given as required by this under paragraph subsection and a pilot is not able to reach the vessel to

render pilot services, the vessel or the vessel's owner may be charged for the transportation costs

incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other

charges that would have been incurred had the pilot reached the vessel and provided pilotage

services.

(Eff. 11/7/93, Register 128; am 4/7/95, Register 134; am 8/9/97, Register 143; am 5/31/2000,

Register 154; am 2/12/2005, Register 173; am 10 / 9 / 2016, Register 220)

Authority: AS 08.62.040 AS 08.62.190

12 AAC 56.960(d) is amended to read:

(d) If a vessel piloted by a state licensed pilot **is involved in a collision, allision, or grounding** [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 may will, in the coordinator's discretion, investigate the reported incident. *|| Cofa ||*

(Eff. 6/11/71, Register 38; am 6/19/74, Register 50; am 5/12/78, Register 66; am 7/24/83,

Register 87; am 12/26/86, Register 100; am 8/29/87, Register 103; am 7/26/90, Register 115; am

11/7/93, Register 128; am 5/17/95, Register 134; am 6/16/96, Register 138; am 1/23/99, Register

149; am 3/15/2002, Register 161; am 10 / 9 / 2016, Register 220)

7

Authority: AS 08.62.040 AS 08.62.160

regarding years of service under

has the meaning given
in 46 C.F.R. 10.107

IN

12 AAC 56.990(a)(34) is amended to read:

(34) "year" as used in AS 08.62.093(b)(1) – (4) [AS 08.62.093(b)] means the Capts same as year in 46 C.F.R. 10.107, elsewhere, year means 365 days [10.103];

(Eff. 6/11/71, Register 38; am 6/19/74, Register 50; am 5/12/78, Register 66; am 7/24/83, Register 87; am 12/26/86, Register 100; am 8/29/87, Register 103; am 7/26/90, Register 115; am 5/13/92, Register 122; am 4/7/93, Register 126; am 10/2/93, Register 127; am 7/15/95, Register 135; am 6/16/96, Register 138; am 6/17/96, Register 138; am 1/23/99, Register 149; am 3/21/99, Register 149; am 5/31/2000, Register 154; am 3/15/2002, Register 161; am 10/24/2002, Register 164; am 5/26/2007, Register 182; am 1/29/2009, Register 189; am 11/4/2009, Register 192; am 10/28/2010, Register 196; am 10 / 9 / 2016, Register 220)

Authority: AS 08.62.040 AS 08.62.160

MEMORANDUM


State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: September 6, 2016

File No.: JU2016200264

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Regulations re: qualifications for
marine pilots, availability of marine
pilots in the Western Alaska Region,
and duties of marine pilots regarding
collisions, allisions, and groundings
(12 AAC 56.029(2); 12 AAC
56.205(b); 12 AAC 56.960(d);
12 AAC 56.990(a)(34))

We have reviewed the attached regulations from the Board of Marine Pilots against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated September 6, 2016 from the Regulations Attorney. The regulations update requirements regarding qualifications for marine pilots, availability of marine pilots in the Western Alaska Region, and duties of marine pilots regarding collisions, allisions, and groundings.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The March 30, 2016 public notice and the May 26, 2016 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

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

MEMORANDUM


State of Alaska
Department of Law

To: Sara Chambers, Interim Marine Pilot
Coordinator
Board of Marine Pilots

Date: September 6, 2016

File No.: JU2016200264

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Regulations re: qualifications for
marine pilots, availability of marine
pilots in the Western Alaska Region,
and duties of marine pilots regarding
collisions, allisions, and groundings
(12 AAC 56.029(2); 12 AAC
56.205(b); 12 AAC 56.960(d);
12 AAC 56.990(a)(34))

Under AS 44.62.060, we have reviewed the attached changes by the Board of Marine Pilots and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated September 6, 2016 from the Regulations Attorney.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The March 30, 2016 public notice and the May 26, 2016 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Sara Chambers, Interim Marine Pilot Coordinator
Board of Marine Pilots
Our file: JU2016200264

September 6, 2016
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

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

Jun Maiquis, Regulations Specialist
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Assistant Attorney General
Commercial and Fair Business Section

MEMORANDUM


State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: September 6, 2016

FILE NO.: JU2016200264

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard 
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Board of Marine Pilots
regulations re: qualifications for
marine pilots, availability of
marine pilots in the Western
Alaska Region, and duties of
marine pilots regarding
collisions, allisions, and
groundings (12 AAC 56.029(2);
12 AAC 56.205(b); 12 AAC
56.960(d); 12 AAC
56.990(a)(34))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and Assistant Regulations Attorney
Legislation/Regulations Section

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF BOARD ACTION

I, Crystal Dooley, Marine Pilot Coordinator for the Board of Marine Pilots, being duly sworn, state the following:

The attached motion dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions was passed by the Board of Marine Pilots during its May 17, 2016 teleconference meeting.

Date: 5/26/16
Juneau, Alaska

Crystal Dooley
Crystal Dooley, Marine Pilot Coordinator

SUBSCRIBED AND SWORN TO before me this 26 day of May, 2016.



Fannie R. Hoffard
Notary Public in and for the
State of Alaska
My commission expires: with office

**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 17, 2016

**Teleconference originating at the State Office Building
333 Willoughby Avenue
9th Floor Conference Room B-East
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 meeting of the Alaska Board of Marine Pilots was held on May 17, 2016 in via teleconference.

May 17, 2016

Call to Order/Roll Call

The meeting was called to order at 10:00 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
Andrew Mack	- Public Member
Shirley Marquardt	- Public Member
Tom Rueter	- Agent Member
Rick Erickson	- Agent Member
Chris Hladick, Chair	- Commissioner's Designee

Staff present:

Crystal Dooley	Marine Pilot Coordinator (MPC)
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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 for April 12, 2016

The MPC confirmed that the tentative date for the next meetings were October 12 and the January 26. Mr. Erickson stated that Mr. Tibbles had commented at the last meeting there was a no vote on a specific topic, but the MPC had recorded there was a vote. Since the Board had no clear recollection, the MPC stated she would listen to the recording and report back. The Chair called for a vote on the approval of the minutes:

Motion: Approve minutes for April 12, 2016

Moved by: Mr. Erickson

Second: Captain Arzt

The Chair called for the vote and there were no affirmative votes. The Chair stated the Board would vote on the minutes at the next meeting.

**Agenda Item 3 Adoption of Regulations: 12 AAC 56.205(b), 12 AAC 56.029(2),
12 AAC 56.990(a)(34) & 12 AAC 56.960(d)**

12 AAC 56.205(b)

Motion: Accept proposed change to regulation 12 AAC 56.205(b) (1):

“(1) in Akutan of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 48 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 48-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 48 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 48-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services;

- (2) in the Pribilof Islands, Port Clarence, and the Kuskokwim Bay Region of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 96 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 96-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 96 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 96-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services;
- (3) in all other locations of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 72 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 72-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 72 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 72-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services."

Moved by: Captain Antonsen:

Second: Mr. Rueter

The Chair requested a roll call vote:

Captain Arzt - Yes

Captain Antonsen - Yes

Mr. Erickson: - Yes

Mr. Mack - Yes

ALASKA BOARD OF MARINE PILOTS
MINUTES OF MEETINGS
MAY 17, 2016
PAGE 4

Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

12 AAC 56.029(2)

Motion: Accept proposed change to regulation 12 AAC 56.029(2):

“(2) show that the applicant has held a valid deputy marine pilot license in Alaska for a minimum of three years while remaining eligible for license renewal during this period of service without use of the familiarization trips under AS 08.62.120”

Moved by: Ms. Marquardt
Second: Mr. Rueter:

The Chair requested a roll call vote:

Captain Arzt - Yes
Captain Antonsen - Yes
Mr. Erickson - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

12 AAC 56.990(a)(34)

Motion: Accept proposed change to regulation 12 AAC 56.990(a)(34):

“(34) "year" as used in AS 08.62.093(b) means the same as year in 46 C.F.R. 10.103, elsewhere, year means 365 days”

Moved by: Captain Antonsen
Second: Captain Arzt

The Chair asked for discussion. The Chair confirmed with the MPC that the only change to the regulation was adding “elsewhere, year means 365 days”. Captain Antonsen stated he was concerned about unintended consequence in other paragraphs detailing required sea time and sea service instead of years. He recommended waiting for feedback from the pilot associates before future clean-up efforts.

Mr. Rueter stated he believed the 46 CFR 10.103 does not refer to any definition, and the correct citation is 46CFR 10.107. Captain Antonsen asked if the Board

would be looking at the citations later and the MPC stated she was hoping to have a project completed by the October meeting.

Captain Antonsen asked if the Board could table the issue until the October meeting. Mr. Reuter asked if the Board could amend the definition or use the MPC to research the issue. The Chair asked the MPC if amending the regulation would require re-starting the public notice process. Captain Antonsen stated, at the previous meeting, Mr. Marquis stated that a public notice can be broad or narrow, and that he thought the Board could amend it at the meeting and move on. The MPC stated that the regulation language could be changed provided the broad principle wasn't changed. The Chair recommended the Board amended it.

Mr. Rueter stated the definition referred to in this section be referenced as 46 CFR 10.107.

Captain Antonsen requested a friendly amendment to add language "subparagraph 1 – 4", so the regulation change only referred to the sea service paragraph. Captain Antonsen stated that nothing was changing and it could prevent future conflict. Mr. Reuter stated that "calendar" had been struck. Mr. Rueter stated he would accept the amendment. Captain Antonsen stated he would second the amendment:

Motion: Accept the amended proposed change to regulation 12 AAC 56.990(a)(34):

(34) "Year as used in AS 08.62.093(b)(1-4) means the same as year in 46 CFR 10.107. Elsewhere, year means 365 days."

Moved by: Mr. Rueter

Second: Captain Antonsen

The Chair requested a roll call vote:

Captain Arzt - Yes

Captain Antonsen - Yes

Mr. Erickson - Yes

Mr. Mack - Yes

Mr. Rueter - Yes

Ms. Marquardt - Yes

Mr. Hladick - Yes

Motion passed 7 -0.

Motion: Accept to proposed change to regulation 12 AAC 56.990(a) (34):

"Year as used in AS 08.62.093(b)(1-4) means the same as year in 46 CFR 10.107. Elsewhere, year means 365 days.

The Chair requested a roll call vote:

Captain Arzt - Yes
Captain Antonsen - Yes
Mr. Erickson - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

12 AAC 56.960(d)

Motion: Adopt proposed change to regulation 12 AAC 56.960(d):

“ If a vessel piloted by a state licensed pilot is involved in a collision, allision, or grounding , 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 the coordinator's discretion, investigate the reported incident.”

Moved by: Captain Antonsen

Second: Captain Arzt

The Chair asked for discussion. Mr. Rueter suggested adding an amendment of the wording “if a vessel piloted by a state licensed pilot is involved in a collision, allision, grounding, or any navigational occurrence that results in personal injury, property damage, or environment damage 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 the coordinator's discretion, investigate the reported incident.”

Mr. Erickson seconded the amendment. The Chair called for discussion.

Mr. Rueter stated the Board currently has a regulation with the wording “meets with any casualty”, but back in the Fall meeting there was an inquiry by the Chair on what constituted a reportable incident. Even though there was some discussion, the Board never came to a complete understanding. Mr. Reuter stated the wording addresses what happens when a pilot comes onboard the bridge and finds an impaired crew member or master and if that should that be reported to the Board.

Mr. Reuter stated he was concerned that there had been too many significant reportable occurrences that were never reported to the Board. He stated that any incident may not even apply to the navigation of the vessel, so the Board is going

from one extreme to the other by eliminating the reporting requirement. He stated the Board is charged with the safety of the environment on behalf of the State, the pilots are the eyes and ears that are licensed to be watching for this and the Board would like to have a report of items of concern. He stated he thought it's fitting to have the language added because it would not be overly burdensome to the pilots to report those types of incidents.

Mr. Erickson stated that adding additional language that Mr. Rueter proposed puts the Board in line with what can be found in statutes and the statutory authorization for this section from AS 08.62.040, creating "proficient and competent pilotage service". He stated adding the additional language would be in line with statute and "assures the safety of shipping".

Captain Antonsen stated that the "Protection of human life and property and of the marine environment" was in the context of an efficiently run pilot service, not in overlapping agencies. He stated that other agencies, such as the Coast Guard, maintain visibility and enforcement over those incidents and adding more language to this regulation would re-introduce ambiguity. He stated that it could create a catch-all for pilot conduct that the pilot didn't directly contribute to.

Captain Arzt stated that the example of intoxicated crew members and officers does not speak to the proposed regulation or amended regulation, and that there is more ambiguity and inconsistency if the regulation was amended. He stated that the Board was still defining what a reportable incident was, and that he was not in favor of this new wording because it opened up more uncertainty.

The MPC stated she did not have enforcement authority over intoxicated crew members and would pass the information to the Coast Guard for enforcement. Captain Arzt stated that pilots did have reporting requirements under the Federal government.

Mr. Rueter stated that a key item of concern was this regulation was part of the Pilotage Act, and wasn't it incumbent on the Board to be aware of the issues that may come, whether or not the Board could enforce it? He said if there was an increasing amount of problems or a pilot was present and could make the Board aware of, it was not burdensome to make the Board aware of the report. Mr. Rueter asked about a grounding report for the M/V FENNICA that received great notoriety but was not brought before the Board because it was deemed a charting error. Captain Antonsen stated the Board did not discuss it; however the Board through the MPC and the Chair acted with the Incident Report to follow up on the

issue. Captain Arzt stated that some issues may be reportable but not reportable in the mechanism the Board was discussing.

The Chair asked Mr. Rueter what he wanted to have happen with the incident. Mr. Rueter stated he thought all issues were left to the MPC to determine if an Incident Report is suitable for further investigation. The Chair stated that was correct, however the MPC used the guidance of a reviewing board member. Mr. Rueter stated that, even though the issue was with the navigational chart, the vessel needed costly repairs in a drydock. Mr. Rueter stated he wasn't sure if there was a further investigation or report from the MPC. The MPC asked if she could send out the investigation process chart to explain that when the MPC gets an Incident Report, it's sent out to a Reviewing Board Member to see if there was a violation of statute and regulations. The MPC stated that, in this case, there was no violation of statute and regulations and the case was closed. It was confirmed that Captain Arzt was the reviewing board member for this case, and that this information could be discussed in open session after a case was closed. The MPC stated that cases would not be going before all Board members for deliberation because that was outside of the investigative process. Mr. Rueter stated that his purpose was not to seek a violation of a pilot's license but there is a clear need for a report of an incident and the findings in result of the investigation. He stated the navigation charts were found at fault and determined there was no violation, but he would appreciate a report so the Board can improve their understanding. The Chair asked Mr. Rueter if he wanted a report. The Chair asked if the Coast Guard would have received a report, and the MPC said yes. She stated it would be public information via a FOIA or request by the MPC. Mr. Rueter stated the Board should be aware of incidents and activity, even if there is no enforcement power. Mr. Rueter stated the addition of the new language would require pilots to report incidents that do result in environmental and property damage while the vessel is under their command and it was not an excessive burden.

Captain Antonsen stated that the noticed language and the intent from the beginning was to clear the ambiguity, and this proposed language would add ambiguity back, and failure to report information the pilot may not be aware of puts them at risk for fines and penalties for not reporting the information. He stated that pilots needed clarity on what was needed to report.

Mr. Erickson stated the Board was tasked to define "meets with any casualty", but the Board never solved the issue. He stated he proposed some language at the January meeting and it was never voted on. He stated Mr. Rueter's proposed language limited the reportable incidents to something only occurring during

navigation, and if a ship had to turn sharply to avoid an object and injuries someone, the Board could know. He stated he didn't want the Board to loosen the reporting requirements.

Captain Arzt stated that pilots have obligations to report oil pollution incidents to DEC since that's where jurisdictional control on the State's water lie. He stated there are mechanisms in place and the Board was far afield. The MPC re-read the amended regulation to confirm with Mr. Reuter that his vision was that reportable incidents were only related to navigation. Mr. Rueter said that was correct. Mr. Mack stated the MPC took the information to the RBM and there was a clear line if there was a state or federal law was violated, and if not, that was the end for the BOMP. The MPC stated his understanding was correct, and that the BOMP had statutes or regulations the incident pertained to. Mr. Mack stated there were clear examples, such as a marine pollution incident, and that it would be multiple agencies involved in the investigation. The MPC stated the BOMP would only be concerned with the pilot's actions.

The Chair requested a vote on the amended language:

Motion: Adopt the amended language to the regulation:" If a vessel piloted by a state licensed pilot is involved in a collision, allision, grounding, or any navigational occurrence that results in personal injury, property damage, or environment damage 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 the coordinator's discretion, investigate the reported incident."

Moved by: Mr. Rueter
Second: Mr. Erickson

The Chair called for a roll-call vote:
Captain Arzt - No
Captain Antonsen - No
Mr. Erickson - Yes
Mr. Mack - No
Mr. Rueter - Yes
Ms. Marquardt - No
Mr. Hladick - No

Motion failed 5 – 2.

The Chair asked for vote on the original motion:

Motion: Adopt proposed change to regulation 12 AAC 56.960(d):

“ If a vessel piloted by a state licensed pilot is involved in a collision, allision, or grounding , 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 the coordinator's discretion, investigate the reported incident.”

Moved by: Captain Antonsen

Second: Captain Arzt

The Chair called for a roll-call vote:

Captain Artz– Yes

Captain Antonsen – Yes

Mr. Erickson – No

Mr. Mack – Yes

Mr. Rueter – No

Ms. Marquardt – Yes

Mr. Hladick – Yes

Motion carries 5 – 2.

The Chair stated the Board should have a discussion at the next meeting concerning Mr. Rueter’s concerns and educate the new members on the investigation process.

Agenda Item 4

Approve the Navigation Packet

The Chair asked for a motion to approve the navigation packet. Captain Antonsen stated he appreciated the chance to look over the packet. He stated the packet could change in the future and thanked the agents for their effort. He stated the Voluntary Waterway Guide was the 2014 edition.

Motion: Approve the 2016 Agent Navigation packet as presented.

Moved by: Mr. Rueter

Second: Mr. Erickson.

Captain Artz– Yes

Captain Antonsen – Yes

Mr. Erickson – Yes

Mr. Mack – Yes

Mr. Rueter – Yes

Ms. Marquardt – Yes

Mr. Hladick – Yes

Motion carries 7-0

Agenda Item 5 U.S. Coast Guard Long Range Communication Study

Mr. Rueter stated it was greatly appreciated the Coast Guard was using the MPC as a method of distribution and a minor point of order that, if the Board was instructing the pilot association and agents to participate, it should have been a statement from the Board and not the MPC. Captain Antonsen stated the SEAPA took the notification in the spirit it was offered, and it was not included in the pilot-master exchange in that it could be a distraction, and because there is no record of what pilot met with what master onboard what ship, it would be a better job for the agents. The MPC stated that the Coast Guard was researching Sea Areas 200NM offshore and the Arctic, and while it does not include pilotage waters, it will be pertinent 20 – 30 years from now. Mr. Mack stated he thought the spirit of the request was appropriate but it's a better question for the pilot organizations and agents if they can do it safely and efficiently.

Agenda Item 2 Oral Examination for Captain Maury

On a motion by Captain Antonsen, seconded by Ms. Marquardt, and carried without dissent, the Board entered Executive Session at 11:15AM for the purposes of an oral examination for Captain Ian Maury.

Agenda Item 3 Board Vote on the Licensure of Captain Maury

Motion: Grant Captain Maury a Deputy Marine Pilot's License for Region 2, exempting ice conditions in Nikiski and requiring a docking between October and April in Seward.

Moved by: Captain Antonsen

Seconded by: Mr. Reuter

The Chair asked for a roll-call vote.

Captain Arzt– Yes

Captain Antonsen – Yes

Mr. Erickson – Yes

Mr. Mack – Yes

Mr. Rueter – Yes

Ms. Marquardt – Yes

Mr. Hladick – Yes

Motion carries 7-0

ALASKA BOARD OF MARINE PILOTS
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PAGE 12

The Chair dismissed the Board at 11:40 AM.

Respectfully submitted:

Crystal Dooley

Marine Pilot Coordinator

Chris Hladick

Chairman

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION


I, Jun Maiquis, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 56.029, 12 AAC 56.205, 12 AAC 56.960, and 12 AAC 56.990, dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions, has been given by being:

1. published in a newspaper or trade publication;
2. furnished to interested persons;
3. furnished to appropriate state officials;
4. furnished to the Department of Law, along with a copy of the proposed regulations;
5. electronically transmitted to incumbent State of Alaska legislators;
6. furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
7. posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
8. furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

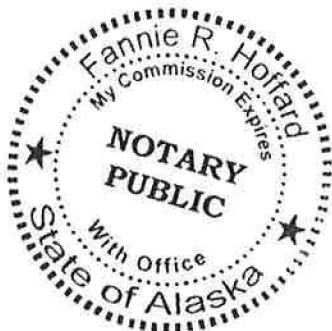
As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

DATE: 6/9/16
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 9th day of June, 2016.

Notary Public in and for the
State of Alaska
My commission expires: with office



STATE OF ALASKA
FIRST JUDICIAL DISTRICT } ss.

AFFIDAVIT OF ORAL HEARING

I, Crystal Dooley, Marine Pilot Coordinator of the Board of Marine Pilots, being sworn, state the following:

The Board of Marine Pilots presided over the following public hearing held in accordance with AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 12 AAC 56.029, 12 AAC 56.205, 12 AAC 56.960, and 12 AAC 56.990 dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions.

April 12, 2016, at 8:50 a.m., at the State Office Building,
333 Willoughby Avenue, 9th Floor, Conference Room A,
Juneau, Alaska.

Date: 5/26/16
Juneau, Alaska

Crystal Dooley
Crystal Dooley, Marine Pilot Coordinator

SUBSCRIBED AND SWORN TO before me this 26 day of May, 2016.



Fannie R. Hoffard
Notary Public in and for the
State of Alaska
My Commission Expires: with office

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jun Maiquis, Regulations Specialist for the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being duly sworn, state the following:


In compliance with AS 44.62.215, the Board of Marine Pilots has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Board of Marine Pilots regulations on dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions.

DATE: 6/9/16
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 9th day of June, 2016.





Notary Public in and for the
State of Alaska
My commission expires: with office

**NOTICE OF PROPOSED CHANGES TO GENERAL REQUIREMENTS FOR MARINE PILOT
LICENSE, NOTIFICATION OF VESSEL MOVEMENTS, DUTIES, AND DEFINITIONS IN
THE REGULATIONS OF THE BOARD OF MARINE PILOTS**

BRIEF DESCRIPTION: The Board of Marine Pilots proposes to update various regulations relating to general requirements for marine pilot license, notification of vessel movements, marine pilot's duties, and clarifying the definition of "year".

The Board of Marine Pilots (Board) proposes to adopt regulation changes in Title 12, Chapter 56, of the Alaska Administrative Code, dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions, including the following:

1. **12 AAC 56.029, General requirements for marine pilot license**, is proposed to be changed to alter the general requirements for a marine pilot license.
2. **12 AAC 56.205, Availability of pilots**, is proposed to be changed to alter the requirements for notification of vessel movements.
3. **12 AAC 56.960, Duties of pilots**, is proposed to be changed to clarify a marine pilot's duties.
4. **12 AAC 56.990, Definitions**, is proposed to be changed to further define terms used in AS 08.62 and 12 AAC 56.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974, and by electronic mail at marilyn.zimmerman@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/180839>, and using the comment link. **The comments must be received not later than 4:30 p.m. on April 29, 2016.**

Oral comments relevant to the proposed actions, including the potential costs to private persons of complying with the proposed action, may also be given at a hearing to be held on April 12, 2016, at the State Office Building, 333 Willoughby Avenue, 9th Floor, Conference Room A, Juneau, Alaska. If you wish to give your comments via telephone, please call 1-800-315-3668 access code 89061. The hearing will begin at 8:50 a.m. and will end when those who have signed up before 8:50 a.m. to give oral testimony have had the opportunity to comment. The chair of the Board may set a time limit for each participant's oral testimony, determined by the chair before the hearing begins, to allow enough time for all those present and timely registered to give testimony.

You may submit written questions relevant to the proposed action to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806, or by e-mail at marilyn.zimmerman@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofMarinePilots.aspx> or on the Alaska Online Public Notice System. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Marilyn Zimmerman at (907) 465-2532 or marilyn.zimmerman@alaska.gov not later than April 22, 2016 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Marilyn Zimmerman at the address or phone number above, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MAR-0316.pdf>.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.62.040; AS 08.62.100; AS 08.62.160; AS 08.62.190

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.62.040; AS 08.62.100; AS 08.62.160; AS 08.62.190

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE:


3/29/16



Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** Board of Marine Pilots – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** General requirements for marine pilot license, availability of pilots, duties of pilots, and definitions.
3. **Citation of regulation:** 12 AAC 56.029, 12 AAC 56.205, 12 AAC 56.960, and 12 AAC 56.990.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarification of current regulations.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: None.
Another state agency: None.
A municipality: None.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs are expected in FY 2016 or in subsequent years.
9. **The name of the contact person for the regulation:**
Crystal Dooley, Marine Pilot Coordinator
Board of Marine Pilots
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Telephone: (907) 465-2548
E-mail: crystal.dooley@alaska.gov
10. **The origin of the proposed action:** Board of Marine Pilots.
11. **Date:** 3/29/16 **Prepared by:** 

Jun Marquis
Regulations Specialist
(907) 465-2537

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THIRD JUDICIAL DISTRICT

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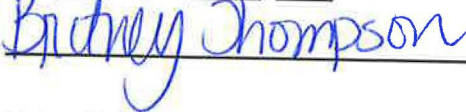
March 30, 2016

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Signed



Subscribed and sworn to before me
this 30th day of March, 2016



Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES



NOTICE OF PROPOSED CHANGES TO GENERAL REQUIREMENTS FOR MARINE PILOT LICENSE, NOTIFICATION OF VESSEL MOVEMENTS, DUTIES, AND DEFINITIONS IN THE REGULATIONS OF THE BOARD OF MARINE PILOTS

The Board of Marine Pilots (Board) proposes to adopt regulation changes in Title 12, Chapter 56, of the Alaska Administrative Code, dealing with general requirements for marine pilot license, availability of pilots, duties of pilots, and definitions, including the following:

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Oral comments relevant to the proposed actions, including the potential costs to private persons of complying with the proposed action, may also be given at a hearing to be held on April 12, 2016, at the State Office Building, 333 Willoughby Avenue, 9th Floor, Conference Room A, Juneau, Alaska. If you wish to give your comments via telephone, please call 1-800-315-3668 access code 89061. The hearing will begin at 8:50 a.m. and will end when those who have signed up before 8:50 a.m. to give oral testimony have had the opportunity to comment. The chair of the Board may set a time limit for each participant's oral testimony, determined by the chair before the hearing begins, to allow enough time for all those present and timely registered to give testimony.

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Statutes Being Implemented, Interpreted, or Made Specific: AS 08.62.040; AS 08.62.100; AS 08.62.160; AS 08.62.190

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 3/29/16

/s/
Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

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Published: March 30, 2016