

# Report Highlights

## Why DLA Performed This Audit

The audit's purpose was to determine if there is a need for the board's continued existence and whether its termination date should be extended. The board is set to sunset June 30, 2019, and will have one year from that date to conclude its administrative operations.

## What DLA Recommends

1. The board should ensure applicable documents are aboard foreign pleasure crafts in accordance with regulatory requirements.
2. The board should ensure the Southeast Alaska Pilots' Association improves its procedures for tracking drug test notifications.

# A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Marine Pilots (board)

April 20, 2018

Audit Control Number 08-20112-18

## REPORT CONCLUSIONS

The audit concludes the board is serving the public's interest by effectively licensing marine pilots and deputy marine pilots and approving trainees and apprentices. Board meetings were conducted in compliance with laws, investigations were processed timely, and the board actively changed regulations to improve the industry and better protect the public.

The audit also concludes the board should improve the process for issuing foreign pleasure craft exemptions. Testing found exemptions were not consistently issued in accordance with regulations. Additionally, the audit found one pilot association was not appropriately tracking drug test notifications.

In accordance with AS 08.03.010(c)(10), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the boards' termination date to June 30, 2027.

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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July 3, 2018

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Marine Pilots and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
BOARD OF MARINE PILOTS  
SUNSET REVIEW

April 20, 2018

Audit Control Number  
08-20112-18

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(10), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination date to June 30, 2027.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

## ABBREVIATIONS

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AAC	Alaska Administrative Code
ACN	Audit Control Number
AS	Alaska Statute
board	Board of Marine Pilots
CFR	Code of Federal Regulations
Ch.	Chapter
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business, and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DLA	Division of Legislative Audit
FY	Fiscal Year
LLC	Limited Liability Company
MPC	Marine Pilot Coordinator
SLA	Session Laws of Alaska
U.S.	United States
USCG	U.S. Coast Guard
VLCS	Very Large Cruise Ships

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# ORGANIZATION AND FUNCTION

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## Board of Marine Pilots

The Board of Marine Pilots (board) is a seven-member board composed of two licensed pilots who are actively engaged in marine piloting, two agents or managers of vessels subject to the marine pilot statutes, two public members, and the commissioner of the Department of Commerce, Community, and Economic Development (DCCED) or designee. Board members as of April 2018 are listed in Exhibit 1.

By statute, not more than one pilot member and one agent may be from any one pilotage region established by the board. Additionally, not more than one registered agent may be employed by, be a contractor for, or hold a financial interest in the same marine industry business entity, including commonly owned, affiliated, or subsidiary business entities. Public members cannot be engaged in the piloting profession, have a legal contract with a pilot, or have a direct financial interest in the piloting profession.

Per AS 08.62.040, board duties include:

1. Maintaining an efficient and competent pilotage service on the inland and coastal waters to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment.
2. Adopting regulations establishing qualifications of and required training for pilots, and providing for examination

## Exhibit 1

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### Board of Marine Pilots Members as of April 2018

Mike Navarre, Chair  
*DCCED Commissioner*

David Arzt  
*Pilot Member*

Ronald Ward II  
*Pilot Member*

Leslie Cronk  
*Agent Member*

Tom Rueter  
*Agent Member*

Richard Harris  
*Public Member*

Peggy McLaughlin  
*Public Member*

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Source: Office of the Governor, Boards and Commissions website.

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of pilots and issuing original or renewal pilot licenses to qualified persons.

3. Maintaining a register of licensed pilots, licensed deputy pilots, and agents.
4. Adopting regulations establishing pilotage regions, professional fees, and criteria to recognize pilot organizations.
5. Reviewing and approving training programs conducted by pilot organizations.
6. Reviewing and approving pilot organizations' articles, bylaws, and rules.
7. Auditing pilot organizations or an individual pilot, as necessary, to implement and enforce statutes and regulations.
8. Establishing and publishing the dates of future license examinations.
9. Approving or disapproving rates for pilotage services.

**DCCED's Division of Corporations, Business, and Professional Licensing (DCBPL)**

DCBPL provides administrative and investigative assistance to the board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving application forms, publishing notices of examinations and meetings, and assisting with board regulations.

Alaska Statute 08.01.087 gives DCBPL authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged or about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.



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3. Examine the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010.
  4. Issue subpoenas for the attendance of witnesses and records.

Alaska Statute 08.01.065 requires the department to adopt regulations that establish the amount and manner of payment of application, registration, and license fees.

## **Marine Pilot Coordinator**

DCBPL employs a marine pilot coordinator (MPC), subject to approval by the board. The position provides assistance to the board in fulfilling its statutory duties and is funded by board fees.<sup>1</sup> The MPC cannot work as a pilot, be an active member of a pilot association, or have a financial interest in a pilot association or the equipment that it uses.

## **Pilot Associations**

All Alaska marine pilots must belong to a pilot association. As provided by AS 08.62.175, pilots have formed associations in three Alaskan regions to provide services to the maritime industry. The associations exist to facilitate joint activities such as billing and collecting for pilot services and to administer the rotation, dispatch, and pilot boat and training operations. The board has delegated to the associations the responsibility for administering a mandatory drug and alcohol testing program for marine pilots, deputy marine pilots, trainees, and apprentices.

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<sup>1</sup>During the audit period, the position did not work full time on board duties. Non-board activity was funded by non-board funding sources.

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## BACKGROUND INFORMATION

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Piloting involves directing sea-going vessels into and out of waters where navigation is dangerous or difficult. Difficulties can include: (1) restricted waterways, such as channels, ports, or harbors; (2) tides, currents, and water depths; and (3) type and nature of traffic. According to AS 08.62.163, state-licensed pilots are independent contractors and may not be an employee of an owner or operator of a vessel subject to state pilotage. Pilots are responsible for the safety of those aboard a vessel and for the protection of the marine environment.

Pilotage of international trade vessels in the United States (U.S.) is regulated by individual states. In 1789, the first U.S. Congress enacted a law giving states the right to regulate pilotage in their waters. The law created the state pilotage system, which remains in effect today. Each state maintains a pilotage system suited to the particular needs and circumstances of its waters.

Every foreign flag vessel and every U.S. flag vessel engaged in international trade or moving in a state's waters is required to use the services of a state-licensed pilot. Enacted in 1970, Alaska's original piloting law, Ch. 106 SLA 70, created the Board of Marine Pilots (board) to regulate and license pilots. The statutes were significantly changed with the passage of the *Marine Pilot Act of 1991*. In passing the 1991 *Marine Pilot Act*, the legislature gave the board broad statutory authority, which included establishing pilotage regions, maximum tariffs, and criteria for training and licensing marine pilots. The policy, findings, and intent of the *Marine Pilot Act* stated:

*It is the policy of the state to prevent the loss of lives and property, and to protect the marine environment of the state by requiring compulsory pilotage on the inland and coastal water of and adjacent to the state.*

In 1995, the legislature extensively revised the statutes and overall structure of the board. The most significant change allowed pilot

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organizations recognized by the board as associations to adopt and revise rates for pilotage services and enter into agreements with the master, owner, operator, or agent of a master, owner, or operator of a vessel concerning the terms and conditions under which the pilot associations provide pilotage services.

## **Vessels Subject to Alaska Marine Pilotage Regulations**

A pilot must be employed for vessels navigating inland and in the coastal waters of, or adjacent to, the State (as defined by the board). This includes any oil tanker of 50,000 dead-weight tons, or greater, navigating in state water beyond Alaska pilot stations. Vessels exempt from this regulation include: vessels subject to federal pilot requirements, U.S. or Canadian fishing vessels, many U.S. and Canadian registered vessels and foreign flag yachts less than 65 feet in overall length.

## **Federal Licensing Requirements**

The U.S. Coast Guard (USCG) enforces federal pilotage laws and issues federal licenses to individuals who meet its requirements. In most states, including Alaska, applicants must have a USCG pilot license in order to obtain a state license. USCG licensing requires a minimum amount of qualifying sea service in addition to passing an examination.

Federal licenses are valid for five years. For license renewals, pilots must submit evidence of one year of sea service within the past five years. Pilotage endorsements on licenses do not expire, but every five years, each pilot must make one familiarization round-trip over the endorsement route. For long or extended routes, pilots are not required to physically make the familiarization trip; pilots can be certified based on a review of publications and charts.

## **State Licensing Requirements**

Since knowledge of local geography and waterways is an essential aspect of the pilotage profession, individuals licensed as marine pilots are required to have extensive navigational experience.

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Established by State law, these requirements involve up to seven years' experience in navigating vessels of various sizes. Deputy marine pilot training and apprenticeship programs<sup>2</sup> provide on-the-job training in the region where licensure is sought. Candidates in the programs progress from either trainee or apprentice to deputy marine pilot and, finally, to marine pilot.

The programs require candidates to ride a ship with a fully licensed training pilot, observing their handling of the ship. Over time, a trainee or an apprentice begins to handle the ship under the training pilot's guidance. Statute requires a minimum of four years of apprenticeship training to become a deputy marine pilot. A deputy marine pilot, in addition to other requirements set out in statutes and regulations, must have three years of experience as a licensed deputy marine pilot to obtain a marine pilot license.

## **Drug and Alcohol Testing Program**

Under AS 08.62.040(b)(2), the board is authorized to establish a mandatory random drug and alcohol testing program. Statutes allow the board to delegate responsibility for administering the program to the pilot associations. The board requires each pilot association to establish a mandatory random drug and alcohol testing program for pilots, trainees, and apprentices. Board regulations specify that pilots must participate in a random drug testing program conducted according to the requirements of federal regulations (46 CFR 16 and 49 CFR 40).

## **Rate Setting Process**

Under AS 08.62.046, local pilot associations set pilotage rates either (1) through negotiation with the master, owner, operator, or agent of a vessel; or (2) by providing due notice, before October 15th, to the board and to all registered agents. If no objection to the proposed rate is filed with the board, the rate takes effect on January 1st of the year following the year in which the notice of intent to adopt the rate is filed with the board. Objections

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<sup>2</sup>12 AAC 56.026 and 12 AAC 56.033, respectively.

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to the proposed rate and relevant evidence demonstrating that the rate is not reasonable must be filed with the board within 60 days of the final publication date. The board may hold a hearing to determine whether the proposed rate is reasonable, or the board may refer the objection to the Office of Administrative Hearings.

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# REPORT CONCLUSIONS

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In developing our conclusion regarding whether the Board of Marine Pilots' (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

The audit concludes the board is serving the public's interest by effectively licensing marine pilots and deputy marine pilots and approving trainees and apprentices. Board meetings were conducted in compliance with laws, investigations were processed timely, and the board actively changed regulations to improve the industry and better protect the public.

The audit also concludes the board should improve the process for issuing foreign pleasure craft exemptions. Testing found exemptions were not consistently issued in accordance with regulations. Additionally, the audit found one pilot association was not appropriately tracking drug test notifications.

In accordance with AS 08.03.010(c)(10), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the boards' termination date to June 30, 2027.

Detailed report conclusions are as follows.

**The board operated in the public interest and does not duplicate the efforts of other entities.**

Board meetings held from July 2014 through January 2018, were conducted in an effective manner. A review of 12 board meetings held during this period found that all were public noticed timely. Each meeting allowed time for public comments and a quorum was consistently met. The audit also determined that the board does not duplicate the efforts of another governmental or private sector agency.

During the audit period, the board held discussions with pilot associations to prepare for the arrival of very large cruise ships

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(VLCS)<sup>3</sup> which are expected to change vessel operations. The VLCS are scheduled to arrive in Southeast Alaska starting in 2018. In preparation for the VLCS, the Southeast Alaska Pilot Association formed a committee to study operations, conduct observation trips, and practice simulations.

A review of board complaints and investigative data found cases were addressed timely. There were 24 cases open or opened between July 2014, and January 2018. All but three were closed during the audit period. A review of case files found four cases were open for over 180 days. Of these, three were actively investigated and one had inactive periods ranging between 36 and 52 days due to turnover and competing priorities of the investigators.

The board was active in adopting and amending regulations. During the audit period, the board added and amended the following:

- Regulation 12 AAC 56.028 to add an ice simulator training course as an option for deputy marine pilots to complete regional training requirements.
- Regulation 12 AAC 56.029 to change the year of sea service calculation for marine pilot candidates. This change provides consistency between the federal regulations and marine pilot state laws.
- Regulation 12 AAC 56.115 to modify foreign pleasure craft exemption requirements. The change clarified the process for issuing pleasure craft exemptions.
- Regulation 12 AAC 56.120 to amend pilot pickup stations. The change corrected an existing pickup location and added new stations.
- Regulation 12 AAC 56.205 to extend the pilot notification period before a vessel sets sail increasing the allowable time to obtain a pilot.

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<sup>3</sup>VLCS are defined as equal to or greater than 120,000 gross tons or more than 1,000 feet long.



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- Regulation 12 AAC 56.960 to clarify the type of incidents reported to the Board.

Regulatory changes during the audit period were publicly noticed according to the Administrative Procedures Act.

**The board issued and renewed licenses according to statutes and regulations; however, improvements in exempting foreign pleasure crafts are needed.**

The audit found the board operated in the public's interest by licensing marine pilots and deputy marine pilots in accordance with statutes and regulations. The board also accepted trainees and apprentices according to applicable laws. A judgmental sample of four new pilot licenses and a random sample of seven license renewals issued during the audit period were tested and all were found to be issued in accordance with statutes and regulations. Auditors also randomly selected two trainees/apprentices to test and both met the qualifications for the training program.

A random sample of seven pilotage exemptions were examined and five were found to be issued without fully meeting the regulation requirements at time of application. (Recommendation 1)

For the period FY 14 through January 2018, the board issued two marine pilot licenses, seven deputy marine pilot licenses, 68 exemptions and accepted 10 trainees/apprentices. Furthermore, 65 pilot licenses were renewed during the audit period. The total number of pilots, trainees/apprentices, and exemptions by region and pilot association as of January 2018 is shown in Exhibit 2.

**Exhibit 2**

**Number of Licensed Pilots, Exemptions, Trainees/Apprentices  
by Region and Pilot Association  
as of January 31, 2018**

Region	Pilot Association	Marine Pilots	Deputy Marine Pilots	Trainees/Apprentices	Exemptions	Total
Southeast	Southeast Alaska Pilots' Association	43	2	5	-	50
Western	Alaska Marine Pilots, LLC	15	3	1	-	19
Southcentral	Southwest Alaska Pilots Association	9	1	2	-	12
Statewide	All	-	-		22	22
	<b>Total</b>	<b>67</b>	<b>6</b>	<b>8</b>	<b>22</b>	<b>103</b>

Source: Compiled from DCBPL licensing database and information provided by DCBPL personnel.

**Generally, drug and alcohol testing programs were properly administered; however, improvements in tracking mail notifications are needed.**

The board has delegated the responsibility for administering drug and alcohol testing to the three regional pilot associations. The audit determined that each pilot association maintained an effective drug and alcohol testing program with eligible donors participating in random drug tests.

Audit test work conducted for drug test donors during the audit period is summarized by pilot association as follows:

- Alaska Marine Pilots, LLC - a random sample of one pilot and one trainee/apprentice were tested and each met the applicable requirements.
- Southeast Alaska Pilots' Association - a random sample of five pilots and four<sup>4</sup> trainees/apprentices were tested. Each met applicable requirements, except three of nine donors were out-of-state or out-of-town and received notices for drug testing by mail. The notices were not tracked by date and recipient, thus the timeliness of the drug tests could not be confirmed. (Recommendation 2)

<sup>4</sup>One was a random sample and the remaining three were judgmentally selected.

- Southwest Alaska Pilots Association - a random sample of two pilots and one trainee/apprentice were tested and each complied with applicable requirements.

Additionally, auditors reviewed the annual drug test reports submitted by the pilot associations to the U.S. Coast Guard and the marine pilot coordinator; the reports provided the number of crewmembers tested and test results from calendar years 2015 to 2017. Auditors found the reports to be materially accurate.

**Licensing fees covered the cost of board operations.**

Primarily, the board receives its revenue from licensure fees, renewal fees and foreign pleasure craft exemptions fees. Renewals are conducted on a biennial basis, creating a two-year cycle in board revenues. Exhibit 3 presents a schedule of board fees from FY 15 through FY 18. As shown in Exhibit 4, the board had a surplus of \$229,487 at the end of March 2018. Per Division of Corporations, Business, and Professional Licensing personnel, a fee analysis was scheduled to begin May 2018 and should be completed before the 2018 renewal period.

**Exhibit 3**

**Board of Marine Pilots  
License and Other Fees  
(FY 15 through FY 18)**

Pilot initial and biennial renewal license fee	\$ 2,500
Agent initial and biennial renewal fee	1,000
Nonrefundable application fee for initial pilot license	500
Examination fee	500
Nonrefundable application fee for others	100
Pilotage Exemption for Pleasure Craft of Foreign Registry*	250
Extension of route examination fee	200
Pilot Endorsements**	100

Source: DCBPL regulations and personnel.

\*The application fee is \$250 and an additional fee of \$50 per foot is assessed for vessels over 65 feet up to but no more than 175 feet.

\*\*Applies to very large crude carrier endorsements and deputy marine pilot tonnage upgrade endorsements only.

**Exhibit 4**

**Board of Marine Pilots  
Schedule of Revenues and Expenditures  
FY 14 through March 31, 2018  
(Unaudited)**

	FY 14	FY 15	FY 16	FY 17	July 1, 2017 - March 31, 2018
<b>Revenues:</b>					
Licensing Fees	\$ 48,500	\$277,450	\$ 65,188	\$281,640	\$ 11,850
<b>Total Revenues</b>	<b>48,500</b>	<b>277,450</b>	<b>65,188</b>	<b>281,640</b>	<b>11,850</b>
<b>Direct Expenditures:</b>					
Personal Services	94,567	80,155	62,067	38,827	60,229
Travel	14,262	14,410	11,698	10,371	9,732
Contractual	22,691	12,220	7,882	8,988	2,712
Supplies	108	734	541	587	195
<b>Total Direct Expenditures</b>	<b>131,628</b>	<b>107,519</b>	<b>82,188</b>	<b>58,773</b>	<b>72,868</b>
<b>Indirect Expenditures</b>	<b>20,190</b>	<b>23,509</b>	<b>18,156</b>	<b>19,436</b>	<b>14,577*</b>
<b>Total Expenditures</b>	<b>151,818</b>	<b>131,028</b>	<b>100,344</b>	<b>78,209</b>	<b>87,445</b>
<b>Annual Surplus (Deficit)</b>	<b>(103,318)</b>	<b>146,422</b>	<b>(35,156)</b>	<b>203,431</b>	<b>(75,595)</b>
<b>Beginning Cumulative Surplus (Deficit)</b>	<b>93,703</b>	<b>(9,615)</b>	<b>136,807</b>	<b>101,651</b>	<b>305,082</b>
<b>Ending Cumulative Surplus (Deficit)</b>	<b>\$ (9,615)</b>	<b>\$136,807</b>	<b>\$101,651</b>	<b>\$305,082</b>	<b>\$ 229,487</b>

Source: DCCED management.

\* FY 18 indirect expenditures were estimated based on prior year actuals.

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# FINDINGS AND RECOMMENDATIONS

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The prior 2012 sunset audit made one recommendation:

- The marine pilot coordinator (MPC) should improve administration of board operational activities.

Most of the findings that led to the prior sunset recommendation have been addressed. Testing found board meetings were public noticed, new licenses and vessel endorsement application packages were issued in accordance with statutes and regulations, trainees were enrolled in a mandatory drug test program and the annual drug testing reports were materially accurate. However, the prior audit finding related to drug test notifications by mail was not resolved and reiterated as part of Recommendation 2 below.

The current audit makes one new recommendation.

## **Recommendation 1:**

**The Board of Marine Pilots (board) should ensure all applicable documents are aboard foreign pleasure crafts in accordance with regulatory requirements.**

Of the seven foreign pleasure craft exemptions tested, five were issued to operators who indicated that required navigational documents were not aboard the vessel.

Specifically, 12 AAC 56.115 requires an operator of a pleasure craft applying for a pilotage exemption to ensure the pleasure craft has aboard documents such as nautical charts, current tidal tables, and other guides. Auditors found five of the seven applications indicated that required documents were not on the vessel.

According to the MPC, the operators can obtain these documents at port or electronically while at sea. It has been standard procedure for the board to approve the exemptions with the understanding that the applicant will follow through and obtain the required documents at a later date. The board did not consider the need for or importance of verifying that the documents were actually obtained. Additionally, the exemption does not include a stipulation that the applicant obtain the required documents prior to entering the applicable area. Issuing foreign pleasure craft exemptions without verifying required documents are aboard the vessel increases the risk to public safety.

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We recommend the board ensure all applicable documents are aboard foreign pleasure crafts in accordance with regulatory requirements.

**Recommendation 2:**

**The board should ensure the Southeast Alaska Pilots' Association improves procedures for tracking drug test notifications.**

In a sample of nine drug test donors from the Southeast Alaska Pilots' Association, the audit found three donors<sup>5</sup> notified by mail were not tracked by date and recipient. Therefore the timeliness of the drug tests could not be confirmed.

The Southeast Alaska Pilots' Association relied on a third party contractor to notify selected donors that were out-of-state or out-of-town. The association was not aware the mail notifications were not adequately tracked.

Drug test requirements under 46 CFR 16.230(h) specify that each marine employer shall ensure random drug tests are unannounced. Inadequate procedures for tracking drug test notifications limit the ability to verify timeliness of drug tests and increase the risk to public safety.

We recommend the board ensure the Southeast Alaska Pilots' Association improves procedures for tracking drug test notifications.

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<sup>5</sup>The three donors were either out-of-state or out-of-town.

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# OBJECTIVES, SCOPE, AND METHODOLOGY

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In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Marine Pilots (board) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(10), the board will terminate on June 30, 2019, and have one year from that date to conclude its administrative operations.

## Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine the status of the prior sunset audit recommendation.

## Scope

The assessment of board operations and performance was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from July 2014 through January 2018. Financial information is presented, unaudited, from July 2013 through March 2018.

## Methodology

During the course of the audit, we reviewed and evaluated the following:

- The prior sunset audit (ACN 08-20076-13) to identify issues affecting the board and to identify the prior sunset audit recommendation.

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- Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public's interest.
  - The State's online public notice system to verify board meetings were adequately public noticed.
  - Board meeting minutes and annual reports to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
  - Various state and news-related websites to identify complaints against the board or other board-related concerns.
  - Board expenditures, revenues, and fee levels to determine whether fee levels covered the costs of operations.
  - Board investigation data from FY 15 through January 2018. Four of 24 cases open during the period were evaluated to determine whether periods of inactivity were reasonable. These cases were selected because the cases had been open for more than 180 days. Two of the six cases were haphazardly selected. The additional two cases were reviewed to evaluate whether the investigations were conducted in accordance with statutes.
  - Federal regulations to gain an understanding of the drug test requirements for marine pilots.

To identify and evaluate board activities, we conducted interviews with Division of Corporations, Business, and Professional Licensing staff, board members, pilot association employees and members, and drug test contractors. Specific topics of inquiry included board operations, regulations, duplication of effort, fee levels, complaints against the board, and drug screening processes.



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During the course of the audit, the following samples were tested:

- Samples of new, renewal, endorsement licenses, and foreign pleasure craft exemptions were selected from a universe of 169 as of January 2018. License applications were assessed for statutory and regulatory compliance. Sample sizes were selected based on moderate control risk, moderate inherent risk, and moderate audit risk. Testing results for the random samples were projected to the appropriate population. The samples included the following:
  - A judgmental sample of four from nine new pilot licenses;
  - A random sample of seven from 65 license renewals;
  - A random sample of three and judgmental sample of one from 27 pilot endorsements; and
  - A random sample of seven from 68 foreign pleasure craft exemptions.
- A random sample of two were selected from 10 trainees and apprentices who were actively involved in a pilot association marine pilot training or apprenticeship program between FY 15 and January 2018. License applications were assessed for statutory and regulatory compliance. Sample sizes were selected based on moderate control risk, moderate inherent risk, and moderate audit risk. Test results were projected to the population.
- Random and judgmental samples of marine pilots, deputy marine pilots, trainees and apprentices subject to drug testing between FY 15 and January 2018 were selected and assessed for compliance with state and federal laws. Sample sizes were selected based on moderate control risk, moderate inherent risk, and moderate audit risk. Testing results for the random sample were projected to the appropriate population. The samples included the following:
  - A random sample of three of 23 pilots and trainees in the Southwest Alaska pilot association;
  - A random sample of six and a judgmental sample of three of 65 pilots and trainees in the Southeast Alaska pilot association;

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- o A random sample of two of 14 pilots and trainees in the Alaska Marine pilot association.

Internal controls over the licensing database and investigative case management system were assessed to determine if controls were properly designed and implemented.

Inquiries regarding board-related complaints were made to the Office of the Ombudsman.

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# APPENDIX SUMMARY

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**Appendix A:** In developing our conclusion regarding whether the Board of Marine Pilots' termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

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## APPENDIX A

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### Analysis Of Public Need Criteria (AS 44.66.050(c))

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

- (1) the extent to which the board or commission has operated in the public interest;
- (2) the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
- (3) the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
- (4) the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
- (5) the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
- (6) the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
- (7) the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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## APPENDIX A (Continued)

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- (8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;
- (9) the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
- (10) the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
- (11) the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

# Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Commerce, Community,  
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800  
Juneau, AK 99811-0800  
Main: 907.465.2500  
Fax: 907.465.5442

RECEIVED

AUG 02 2018

LEGISLATIVE AUDIT

August 2, 2018

Kris Curtis, CPA, CISA  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811

RE: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development, Board of Marine Pilots, April 20, 2018

Dear Ms. Curtis:

Thank you for the opportunity to comment on Confidential Preliminary Report regarding the Board of Marine Pilots. I am pleased to know that you are recommending a full extension of this board to June 30, 2027.

Recommendation No. 1 – The board should ensure all required documents are onboard foreign pleasure crafts in accordance with regulatory requirements.

The division agrees applicants for foreign pleasure craft exemptions should verify all required navigational aids are onboard at the time the application for exemption is submitted. As this is a change in current application practice, the division will begin educating vessel agents about this enhanced enforcement this season. The division will require applicants to verify all required navigational aids are onboard prior to processing the application, beginning with applications received in calendar year 2019.

However, given the division's limited investigative resources, verification will be limited to self-certification unless the agency receives a complaint about or otherwise learns of a violation of this requirement.

Recommendation No. 2 – The board should ensure the Southeast Alaska Pilots' Association improves procedures for tracking drug test notifications.

The division agrees appropriate drug testing is necessary to ensure public safety. To that end, it will encourage SEAPA to ensure all federal drug testing requirements are met, and it will request reports from all pilot associations about their drug testing programs at regular intervals.

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Kris Curtis, CPA, CISA  
Division of Legislative Audit  
August 2, 2018  
Page 2

Again, thank you for the opportunity for the DCCED to provide input on this matter. Should you have any questions about the contents of this letter, please do not hesitate to contact me at 907-465-2500.

Sincerely,



Mike Navarre  
Commissioner

cc: Janey McCullough, Director, Division of Corporations, Business and Professional Licensing



# Agency Response from the Board of Marine Pilots



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

August 2, 2018

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AUG 02 2018

LEGISLATIVE AUDIT

Kris Curtis, CPA, CISA  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

RE: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development, Board of Marine Pilots, April 20, 2018

Dear Ms. Curtis:

We received the preliminary audit report from the Division of Legislative Audit, and appreciate its overall note that the Board of Marine Pilots continues to serve the public interest. With respect to the two specific findings, on behalf of the Board and as the current Chairman, I offer the following responses:

1. The board should ensure all required documents are onboard foreign pleasure crafts in accordance with regulatory requirements.

The Board of Marine Pilots agrees with recommendation number 1. We understand that applicants for foreign pleasure craft exemptions should verify all required navigational aids are onboard at the time the application for exemption is submitted. As this is a change in current application practice, the division on behalf of the Board of Marine Pilots will begin educating vessel agents about this enhanced enforcement this season. Additionally, the division will require applicants to verify all required navigational aids are onboard prior to processing the application, beginning with applications received in calendar year 2019.

Please note that given the division's limited investigative resources, verification will be limited to self-certification unless the Board receives a complaint about or otherwise learns of a violation of this requirement.

2. Recommendation No. 2 - The board should ensure the Southeast Alaska Pilots' Association improves procedures for tracking drug test notifications.

The Board agrees that appropriate drug testing is necessary to ensure public safety. To that end, it will encourage SEAPA to ensure all federal drug testing requirements are met, and it

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will request reports from all pilot associations about their drug testing programs at regular intervals.

Thank you for the chance to respond, the opportunity to learn, and for your hard work in developing these recommendations. Please contact me if more information is needed.

Cordially,



Mike Navarre  
Chair  
Board of Marine Pilots