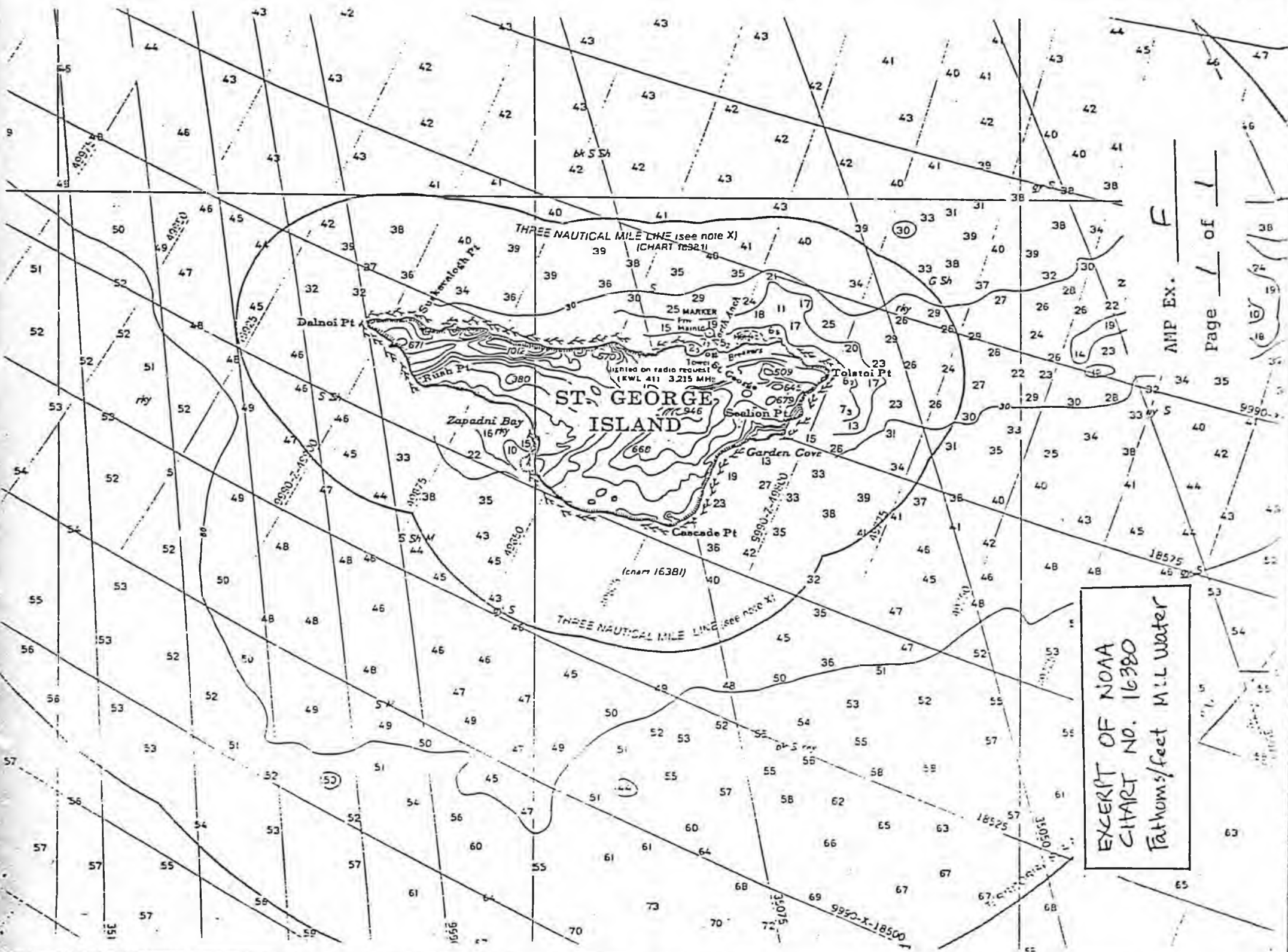
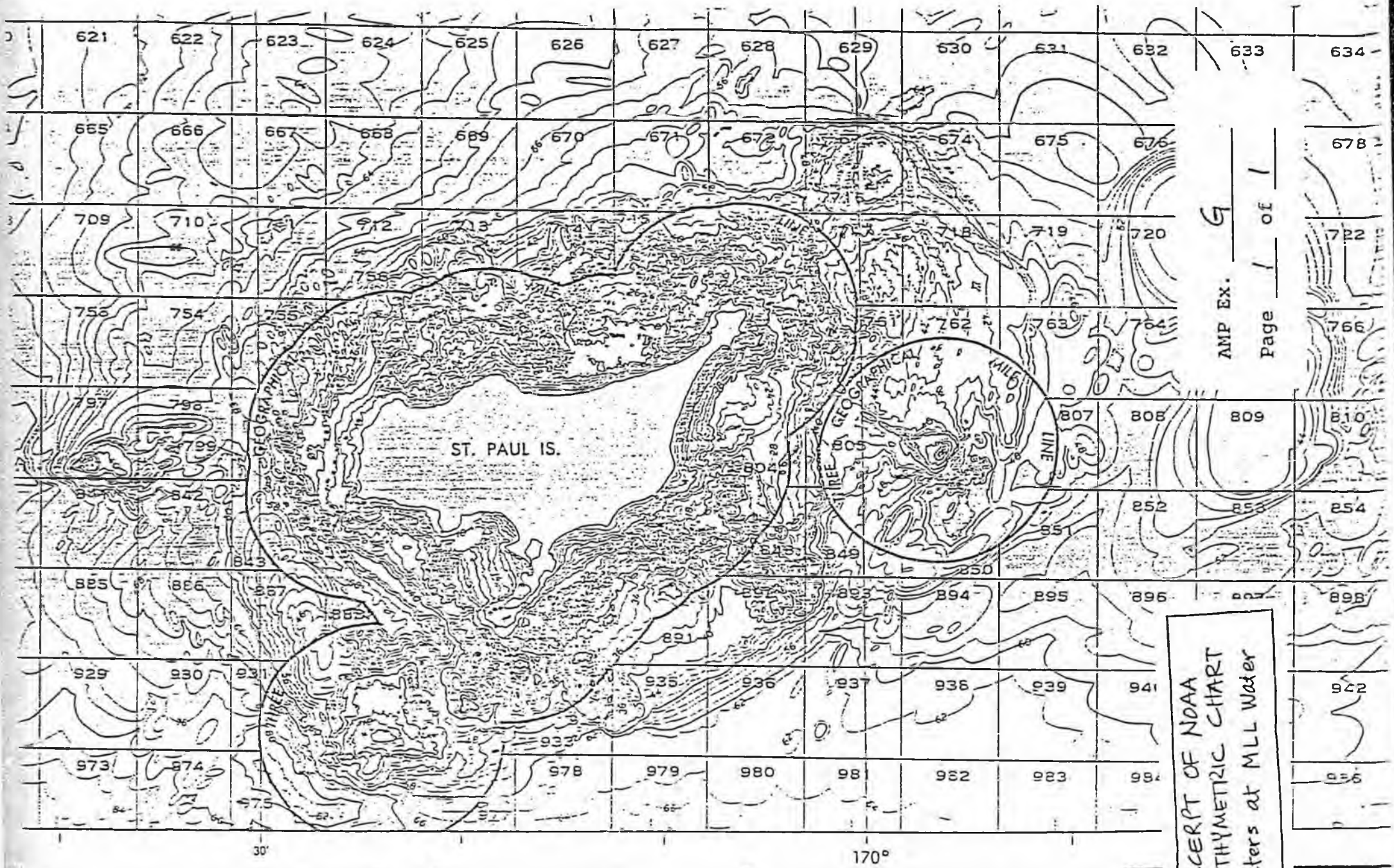


ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7513 SENATE LABOR & COMMERCE



EXCERPT OF NOAA
CHART NO. 16380
Fathoms/feet M.L. Water



AMP Ex. 9
Page 1 of 1

EXCERPT OF NOAA
BATHYMETRIC CHART
Meters at MLL Water

by the National Ocean Service
surveys supplemented by hydro-
graphic survey data complies
with accuracy standards of
not intended for navigational

NATIONAL OCEAN SERVICE
HYDROGRAPHIC SURVEY INFORMATION

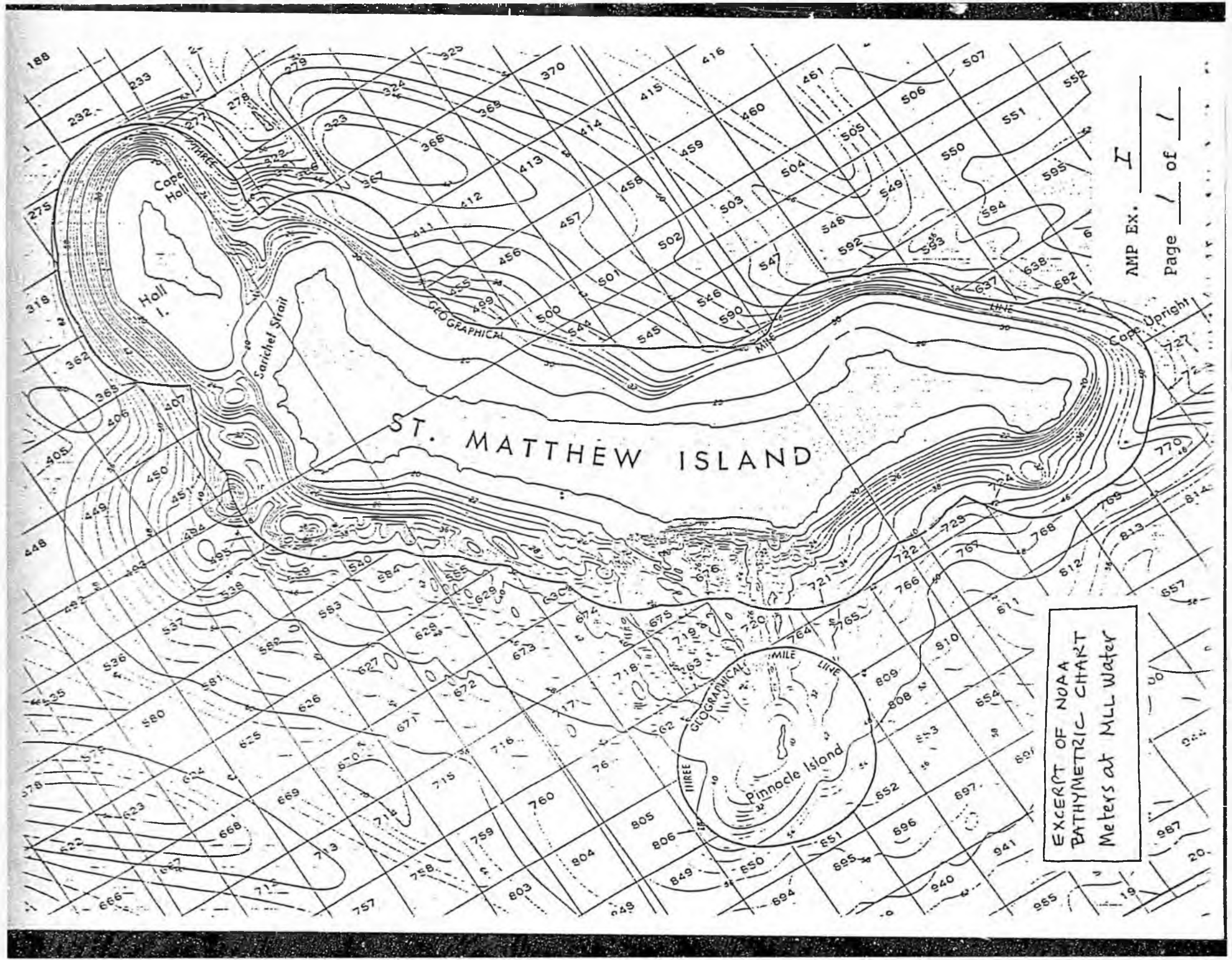
SURVEY NUMBER	SURVEY DATE	SURVEY SCALE	SURVEY LINE SPACING (NAUT. MILES)
N-7918	1951	1:100,000	20-70
N-7948	1951-53	1:40,000	05-55
N-7960	1951	1:40,000	05-55



EXCERPT OF NOAA
 BATHYMETRIC CHART
 METERS AT ALL WATER

AMP Ex. *H*
 Page *1* of *1*

244
 288
 232



AMP Ex. I

Page 1 of 1

EXCERPT OF NOAA
BATHYMETRIC CHART
Meters at MLL water

STATEMENT OF CAPT. WILL ANDERSON

In the three years prior to joining AMP, I sailed as master of factory trawlers and processors in the Bering Sea, including the winter season of 1990 aboard a 328-foot crab processor in the Pribilof Islands. I am familiar with the conditions and problems vessels face in these waters and have observed the general practices of the foreign tramper fleet around the islands.

I would describe the winter conditions around the Pribilof Islands as severe. Successive low pressure systems move through the area, bringing gale-force winds from nearly all directions. Temperatures become bitterly cold, freezing external fire mains, wet mooring lines, flume tanks, and any water lines close to the skin of the vessel. Visibility drops to zero in dense clouds, fog, and blizzards.

There is frequently a large swell out of the southwest regardless of wind direction. This causes moored vessels offloading an anchor to lie in the trough in extremely dangerous conditions. In heavy weather the anchorages become congested, and finding a spot calm enough to work, with a safe distance and swinging room from other vessels, is often difficult. The foreign cargo vessels are mostly under Japanese, Korean, or Panamanian registry, and language barriers add to the considerable challenge of bringing vessels alongside or departing in what are often heavy sea conditions.

The first night I arrived at St. Paul Island, the wind was blowing a steady 60 knots with higher gusts. I brought the vessel into Village Cove and found the anchorage stacked with vessels of all sizes and variety. There were dozens of crab boats from 90 feet to 180-foot crab processors, factory trawlers from 200 feet to 350 feet, and about eight Asian freezer ships averaging 300 feet. A vessel was dragging anchor, and the radio was a cacophony of different languages, codes, and unanswered calls. As a new arrival, it was impossible for me to tell which vessel was which or who was dragging. A general sense of confusion pervaded the scene.

I soon regretted bringing my vessel into the midst of vessels packed so tightly in high winds. Finding it impossible to maneuver in such close quarters, we dropped an anchor with just three shots of chain to drag our bow around into the wind so we could get out. I chose a rough anchorage in the swell rather than risk an accident in such close quarters in the dark. That pace did not let up for three months.

Through the winter I spent in the Pribilofs, I witnessed many close calls and actual incidents. There appears to be a certain acceptance of accidents, which are looked at as part of doing business in the Pribilofs. Particularly true of this are vessel landings and departures when the processors offload to foreign tramp freighters. I cannot think of one processor captain I spoke with while there who did not have a repertoire of crash stories, holes, and insurance claims involving tramper arrivals and departures. Accident reports to the Coast Guard are frequent, and hefty insurance claims are filed every year.

As we constantly moved around the island that winter, an entourage of foreign ships without pilots followed us from anchorage to anchorage. When visibility deteriorated, it was extremely hazardous in the anchorages keeping track of who was moving and who was stationary. After coming alongside, it was common practice on many foreign vessels for the entire crew, from captain on down, to be engaged in loading cargo. Radios were not monitored, anchor positions not checked, and mooring lines not tended for hours at a time. It was often a major ordeal raising the vessel alongside to communicate at all.

The pace in the Pribilofs is fast and furious, and vessels engaged in commerce pursue commercial ends sometimes to the detriment of safety and good judgment. In the Pribilofs, the consequences of these misplaced priorities are swift and unforgiving, as evidenced by the many wrecks on the islands' shores. I believe the need and justification for compulsory pilotage in these waters equal or exceed those anywhere else in the state.

Respectfully submitted,
Capt. Will Anderson

April 1, 1992

	PRODUCT	FUEL	WATER	CARGO	GEAR	PROV-ISION	RER AND CREW	CHA.	MAINT/PARTS	HARPOL 161V REFUSE	OIL	DIVER
Jan												
Feb												
Mar	10	5	4	8	9	5	19	2	3	0	0	0
Apr	22	26	9	7	10	16	28	13	2	0	0	0
May	30	43	8	13	30	20	35	10	3	0	0	0
June	20	37	2	6	50	16	14	4	1	0	0	1
July	7	7	4	4	4	3	13	0	0	0	0	0
Aug	12	9	2	6	3	4	23	5	2	0	0	3
Sept	18	7	3	7	13	5	11	5	1	0	0	28
Oct	6	6	1	1	60	2	0	4	0	3	0	0
Nov	9	2	2	4	8	8	5	5	1	0	0	0
Dec	23	16	2	3	2	13	13	5	0	0	0	0
Jan	26	37	20	8	8	20	45	14	7	0	0	1
Feb	38	33	12	9	7	11	31	9	11	0	0	0
Mar												
Apr												
May												
June												
July												
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Oct												
Nov												
Dec												

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 FOR 1991
 FROM MASTER
 ST. PAUL

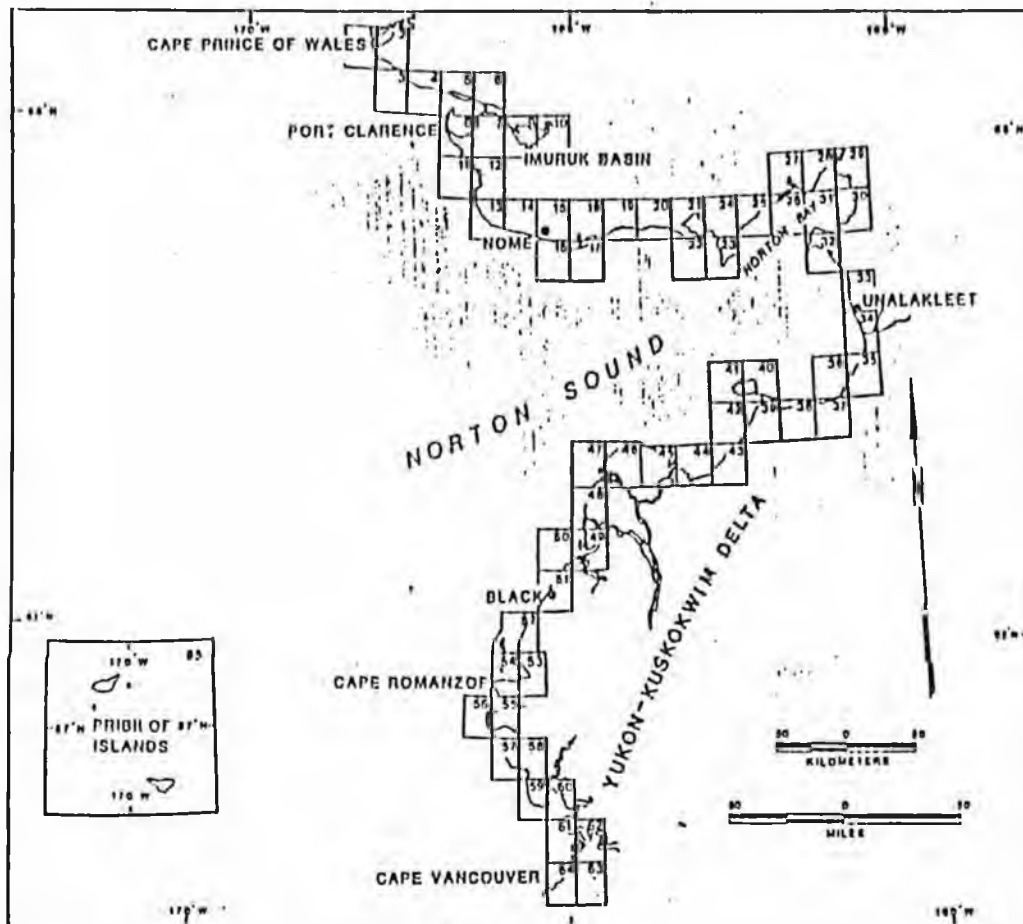
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|--|---|---|--|---|--|
| 1 <u>SEAP.</u>
All Alaskan
Yard Arm Knot
Alaska I | <u>Feb.</u>
All Alaskan
Yard Arm Knot
Alaska I | <u>March</u>
All Alaskan
Yard Arm Knot
Sea Alaska
Alaska Packer | <u>April</u>
All Alaskan
Yard Arm Knot
Sea Alaska
Alaska Packer
Omni Sea | <u>May</u>
All Alaskan
Yard Arm Knot
Sea Alaska
Alaska Packer
Omni Sea | <u>June</u>
Yard Arm Knot
Sea Alaska
Alaska Packer
Omni Sea
Deen Pride |
| 2 <u>SEA</u>
All Alaskan
Yard Arm Knot | <u>Feb.</u>
All Alaskan
Yard Arm Knot | <u>March</u>
All Alaskan
Yard Arm Knot | <u>April</u>
Ocean Pride
Clipperton
Alaska I
Aleutian Falcon
North land
Rene Keren Marie | <u>May</u>
Ocean Pride
Clipperton
Northland
Alaska I
Aleutian Falcon
Coastal Star
Omni Sea
Rene Keren Marie | <u>June</u>
Clipperton
Northland
Aleutian Falcon
Coastal Star
Galaxy
Akutera |

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SENSITIVITY OF COASTAL ENVIRONMENTS AND WILDLIFE TO SPILLED OIL

NORTON SOUND AND THE PRIBILOF ISLANDS, ALASKA

AN ATLAS OF COASTAL RESOURCES



ACKNOWLEDGMENTS

We would like to thank the many people who helped bring this project to completion. Dr. Paul R. Becker of the NOAA, Office of Marine Pollution Assessment (OMPA), Alaska office, is commended for his liaison activities between the Bureau of Land Management and Research Planning Institute, Inc. George Laplene, also of the NOAA Alaska office, very efficiently handled our logistical requests. NOAA pilot Gary Van Den Berg and mechanic Bob Neald kept us flying in spite of two major breakdowns. George Miles, Starnell Perez, Sydney Pearce, Joann Travenger, Len Magnum and Jerry Cole of RPI provided the graphic layout and design.

Funding for the original work and map preparation was provided by the National Oceanic and Atmospheric Administration/Outer Continental Shelf Environmental Assessment Program (NOAA/OCSEAP) with interagency support by the Department of Interior/Bureau of Land Management. All maps were completed in 1980. In addition, an 171 page text detailing the coastal resources and protection strategies is available.

Prepared for:

National Oceanic and Atmospheric Administration
Office of Oceanography and Marine Services
Seattle, Washington
98115

Prepared by:

Erich R. Gundlach
James L. Sadd
Geoffrey I. Scott
Larry C. Thebeau

Research Planning Institute, Inc.
925 Gervais Street
Columbia, South Carolina
29201

AMP Ex. L

Page 1 of 6

Sensitivity of Coastal Environments and Wildlife to Oil Spills

This atlas contains a series of oil spill Environmental Sensitivity Index (ESI) maps designed to guide the U.S. Coast Guard and other spill response groups toward evaluating the probable hazards of a particular spill and to effectively plan spill control operations. The ESI is based on the scientific investigation of several of the largest oil spills in history, including *Amoco Cadiz*, *Ulquiala*, and *Metula*. As presented in this atlas, the ESI consists

- Geological information describing shoreline type in terms of probable spill damage and persistence.
- Biological data delineating the location and range of major marine species or groups.
- Socioeconomic data showing the location of special use areas.
- Spill response information indicating locations for primary spill protection and control equipment.

Further description of the particular ESI selected for this atlas is presented on the next page.

DEVELOPMENT OF THE ESI

The development of the Environmental Sensitivity Index or oil spills dates back to an initial mapping project funded by Alaska (Department of Fish and Game) for lower Cook Inlet in 1976. Since that time, the mapping projects have been expanded to include biological, socioeconomic and spill response information in response to needs expressed by the U.S. Coast Guard, the National Oceanic and Atmospheric Administration and the Bureau of Land Management. Key references describing this development include (1) E. R. Gundlach and M. O. Hayes, Vulnerability of Coastal Environments to Oil Pollution, Marine Technology Society Journal, 1978, vol 12 p.18-27, (2) M. O. Hayes, E. R. Gundlach and C. D. Geller, Sensitivity Ranking of Energy Port Shorelines, Proceedings of a Specialty Conference on Ports, American Society of Civil Engineers, New York, 1980, p. 697-709, and (3) C. D. Geller, L. C. Thebeau, T. Ballou and J. J. Maiero, Mapping the Distribution of Protected and Sensitive Oil Sensitive Coastal Fish and Wildlife, 1981 Oil Spill Conference, American Petroleum Institute, Washington, D.C., p. 325-329.

AVAILABLE ESI MAPS AND REPORTS

UNITED STATES

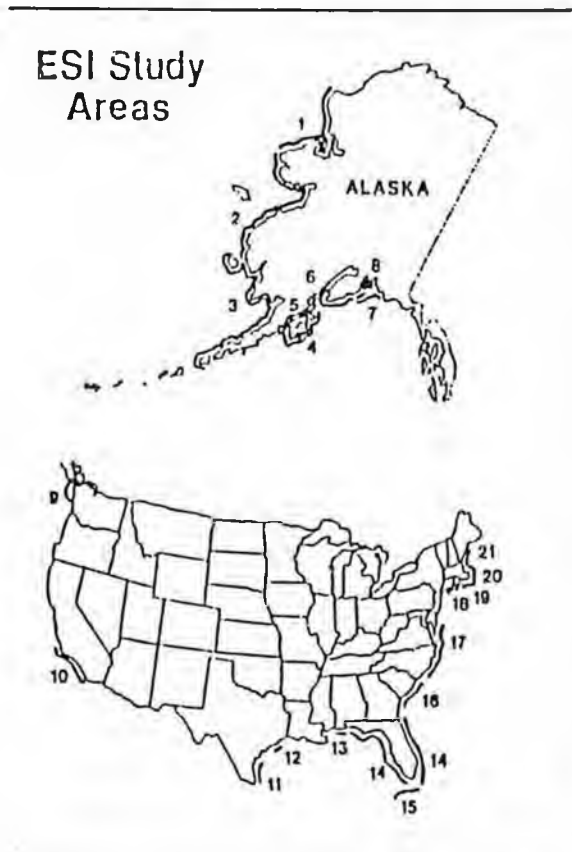
- KOTZEBUE SOUND, ALASKA**
Point Hope to Cape Prince of Wales.
Report and 31 maps, partially completed.
- NORFON SOUND AND PRINLOF ISLANDS, ALASKA**
Cape Prince of Wales to Cape Vancouver and the Pribilof Islands.
Report and 83 maps.
- BRISTOL BAY, ALASKA**
Cape Vancouver to Unimak Island.
Report and 104 maps.
- KODIAK ISLAND, ALASKA**
South shore of Kodiak, Adognak, and the Tidal Islands.
Report and 47 maps, partially completed.
- SHREKOF STRAIT, ALASKA**
Port Wrangal to Cape Douglas on the Alaska Peninsula, and the northern side of Kodiak Adognak Islands.
Report and 47 maps.
- LOWER COOK INLET, ALASKA**
Cape Douglas to the Chugach Islands.
Report and 34 maps, partially completed.
- OUTER KENAI PENINSULA, ALASKA**
Report and 23 maps, partially completed.
- PRINCE WILLIAM SOUND-COPPER RIVER DELTA, ALASKA**
Cape Resurrection to Cape Suckling, including Kayak Island.
Atlas report and 42 maps.
- STRAIT OF JUAN DE FUCA/PUGET SOUND, WASHINGTON**
Atlas report and 82 maps.
- SOUTHERN CALIFORNIA**
Point Conception to Mexican border, including all offshore islands.
Report and 58 maps.
- SOUTH TEXAS**
Brazos Santiago Pass to Aransas Pass.
Report and 15 maps.
- DALVESTON BAY, TEXAS**
Atlas report and 10 maps.
- ALABAMA**
Atlas report and 23 maps.
- FLORIDA**
Entire state except for south Florida.
Several reports and 204 maps.
- SOUTH FLORIDA**
Florida Keys to Boca Raton.
Report and 23 maps.
- SOUTH CAROLINA**
Report and 50 maps.
- NORTH CAROLINA, VIRGINIA, MARYLAND**
250 maps.
- LONG ISLAND SOUND**
North shore of Long Island and all of Connecticut.
Atlas report and 54 maps.
- RHODE ISLAND (including Fall River, Massachusetts)**
Atlas report and 17 maps.
- MASSACHUSETTS**
Report and 55 maps.
- SOUTHERN MAINE AND NEW HAMPSHIRE**
Massachusetts border to the Kennebec River, Maine.
Atlas report and 25 maps.

INTERNATIONAL

Panama: Laguna de Chiriqui (Atlantic) and Bahia de Chiriqui (Pacific).

Kuwait: Entire coast

ESI Study Areas



rpi inc.
Columbia, S.C.

AMP Ex. L

Page 2 of 6

ENVIRONMENTAL STATEMENT NORTON SOUND AND THE PRIBILOF ISLANDS, ALASKA

D.E.C.

SHORELINE TYPES

All shoreline types were classified during a low altitude aerial survey using a National Oceanic and Atmospheric Administration helicopter during the summer of 1980. The different shoreline types found in Norton Sound and the Pribilof Islands are ranked below in order of increasing sensitivity. Environments 0, 9 and 10 are most sensitive and should receive priority protection during an oil spill.

- | | | |
|-------------|--|---|
| Sensitivity | | 1. Exposed rocky headlands. |
| | | 2. Wave cut platforms. |
| | | 3. Fine grained sand beaches. |
| | | 4. Coarse grained sand beaches. |
| | | 5. Exposed tidal flats. |
| | | 6. Exposed, mixed sand and gravel beaches. |
| | | 7. Gravel beaches. |
| | | 7A. Sheltered, mixed sand and gravel beaches. |
| | | 7B. Basalt boulder beaches. |
| | | 8. Sheltered rocky shores. |
| | | 8A. Eroding point scarp. |
| | | 9. Sheltered tidal flats. |
| | | 10. Marshes. |

BIOLOGICAL RESOURCES

Information pertaining to the biological resources of the study area were collected during the field survey of 1980 and from other investigations. Areas having important biological populations should be given high response priority.

- MARINE MAMMALS**
 - ↘ Seals and walrus Pupping or haulout grounds
 - ↘ Whales Migration and summer residence
- MARINE BIRDS**
 - ↘ Alcids Flockeries and critical forage areas
 - ↘ Diving birds
 - ↘ Gulls and Terns
 - ↘ Shorebirds
 - ↘ Waterfowl
- FISHES**
 - Salmon Spawning areas or runs
 - Herring Spawning areas
- SHELLFISH**
 - ↔ Clams Abundant clam areas
- SUBTIDAL VEGETATION**
 - Eelgrass beds Abundant *Zostera* beds

SOCIOECONOMIC AND SPILL-RESPONSE INFORMATION

Cleanup efforts in areas having socioeconomic importance should be particularly careful. Information concerning spill-response activities, particularly ooming, was included to provide preliminary direction to the response effort.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Archaeological sites | Mining claims |
| <input type="checkbox"/> Private lands | <input checked="" type="checkbox"/> Onshore |
| <input checked="" type="checkbox"/> Landing strips | <input checked="" type="checkbox"/> Offshore |
| <input type="checkbox"/> Boom location | <input checked="" type="checkbox"/> Washovers |
| <input checked="" type="checkbox"/> Recommended closures | <input type="checkbox"/> Station locations |

KEY TO SPECIES

- | | |
|-----------------------|------------------------------------|
| MAMMALS | |
| 9. Beluga whale | (<i>Delphinapterus leucas</i>) |
| 18. Walrus | (<i>Odobenus rosmarus</i>) |
| SHELLFISH | |
| 25. Soft shell clam | (<i>Mya arenaria</i>) |
| BIRDS | |
| B. Various shorebirds | |
| C. Various waterfowl | |
| F. Various seabirds | |
| 10. Pelagic cormorant | (<i>Phalacrocorax pelagicus</i>) |
| 28. Harlequin duck | (<i>Histrionyx histronicus</i>) |
| 38. Herring gull | (<i>Larus argentatus</i>) |
| 45. Common tern | (<i>Sterna hirundo</i>) |
| 48. Common murre | (<i>Uria lomvia</i>) |
| 47. Pigeon guillemot | (<i>Cepphus columba</i>) |
| 49. Marbled murrelet | (<i>Brachyramphus marstoni</i>) |
| 51. Tufted puffin | (<i>Lunda cinerea</i>) |
| 70. Cormorant | (<i>Phalacrocorax sp.</i>) |
| 80. Arctic tern | (<i>Sterna paradisaea</i>) |
| 81. Horned puffin | (<i>Fastorcula corniculata</i>) |

- | | |
|-----------------------------|-------------------------------------|
| 83. Glaucous gull | (<i>Larus hyperboreus</i>) |
| 84. Parasit auklet | (<i>Cyclorhynchus palliact</i>) |
| 85. Roseate tern | (<i>Sterna dougalli</i>) |
| 100. Black-legged Kittiwake | (<i>Rissa tridactyla</i>) |
| 101. Aleutian tern | (<i>Sterna stauilica</i>) |
| 103. Common eider | (<i>Somateria mollissima</i>) |
| 104. Murre | (<i>Uria sp.</i>) |
| 105. Thick billed murre | (<i>Uria lomvia</i>) |
| 107. Paragull falcon | (<i>Falco peregrinus</i>) |
| 108. Kittiwake murrelet | (<i>Brachyramphus brevirostr</i>) |
| 109. Crested auklet | (<i>Aethia cristatella</i>) |
| 110. Dovekie | (<i>Alia alia</i>) |
| 111. Least auklet | (<i>A. nana pusilla</i>) |
| 112. Black guillemot | (<i>Cepphus grylle</i>) |
| 113. Gyrfalcon | (<i>F. coarctatus</i>) |
| 114. Sabine's gull | (<i>Xema sabini</i>) |
| FISH | |
| 64. Oullback rockfish | (<i>Sebastes maliger</i>) |
| 68. Pacific herring | (<i>Clupea harengus pallasi</i>) |
| 69. Chinook Salmon (King) | (<i>Oncorhynchus tshawytschi</i>) |
| 69. Coho salmon (silver) | (<i>Oncorhynchus kisutch</i>) |
| 70. Pink salmon (humpy) | (<i>Oncorhynchus gorbuscha</i>) |
| 71. Sockeye salmon (red) | (<i>Oncorhynchus nerka</i>) |
| 72. Chum salmon (dog) | (<i>Oncorhynchus keta</i>) |

● ENDANGERED

PRIMARY REFERENCES

ADF&G, 1977a. Biophysical process maps for Alaska's coastal zone: Bonanza of Wales, Alaska Dept. of Fish and Game, Anchorage, Alaska, 2 maps 24 x 36 inches.

ADF&G, 1977b. Biophysical process maps for Alaska's coastal zone, No. 1: Denbigh; Alaska Dept. of Fish and Game, Anchorage, Alaska, 2 maps 24 by 36 inches.

ADF&G, 1977c. Biophysical process maps for Alaska's coastal zone, No. 1: Island; Alaska Dept. of Fish and Game, Anchorage, Alaska, 2 maps 24 by 36 inches.

ADF&G, 1977d. Biophysical process maps for Alaska's coastal zone, No. 1: River; Alaska Dept. of Fish and Game, Anchorage, Alaska, 2 maps 24 by 36 inches.

Atkinson, P., 1977. Identification, documentation, and delineation of coastal areas in Alaska: In Environmental Assessment of the Alaskan Continental Shelf: Principal Investigators for the Year ending March 1977, Outer Continental Shelf Environmental Assessment Program, U.S. National Oceanic and Atmospheric Administration and U.S. Bureau of Land Management, Boulder, Colo., Vol. 1, p. 1-100.

Boston, L. H., 1978. Fishery resource surveys in Norton Sound and Kotzebue Sound, Alaska Dept. of Fish and Game, Commercial Fisheries Div., Anchorage.

Braham, H., C. Fiscus, and D. Rugh, 1977. Marine mammals of the Bering and Sea: In Environmental Assessment of the Alaskan Continental Shelf: Principal Investigators for the Year ending March 1977, Outer Continental Shelf Environmental Assessment Program, U.S. National Oceanic and Atmospheric Administration and U.S. Bureau of Land Management, Boulder, Colo., Vol. 1, pp. 1-99.

Dupre, W. N., 1978. Yukon delta coastal processes study: In Environmental Assessment of the Alaskan Continental Shelf: Annual Reports of Principal Investigators for March 1978, Outer Continental Shelf Environmental Assessment Program and Oceanic and Atmospheric Administration and U.S. Bureau of Land Management, Boulder, Colo., Vol. XI, Hazards, pp. 384-448.

Gusey, W.F., 1978. The fish and wildlife resources of the Bering Sea region: SI Houston Texas, 370 pp.

Leblond, R. C., 1972. Yukon River anadromous fish investigations, 1971: Alaska Dept. of Game, Commercial Fisheries Div., Fishery Bull. No. 14, Juneau, 45 pp.

Mattson, C. R., 1992. Chum salmon resources of Alaska from Bristol Bay to 1 Fish and Wildlife Serv., Special Report, Fisheries, No. 425, 22 pp.

McNoy, C. P., 1970. Standing stocks and other features of eelgrass (*Zostera marina*) on the coast of Alaska: Jour. Fish. Res. Bd. Canada, Vol. 27, pp. 1811.

Marshall, T. R., 1978. Baseline reconnaissance characterization, littoral biota, Gut Bering Sea: In Environmental Assessment of the Alaskan Continental Shelf: Vol. 4, pp. 256-416.

Sallenger, Jr., A. H., J. R. Dingler, and R. Hunter, 1978. Coastal processes and the Bering Sea coast of Alaska: In Environmental Assessment of the Alaskan Shelf: Annual Reports of Principal Investigators for the Year ending March 1978, Outer Continental Shelf Environmental Assessment Program, U.S. National Oceanic and Atmospheric Administration and U.S. Bureau of Land Management, Vol. XI 431-502.

Intertidal survey data: Natl. Marine Survey, 300 pp.

1978. Catalog of Alaskan seabirds: Program, FWS/OBS-78/78, 233 pp.

Studies of fish and shellfish resources: In Environmental Assessment of the Bering Sea: Report October-December 1978, U.S. National Oceanic and Atmospheric Administration, Boulder, Colo., Vol. 2, pp. 231-294.

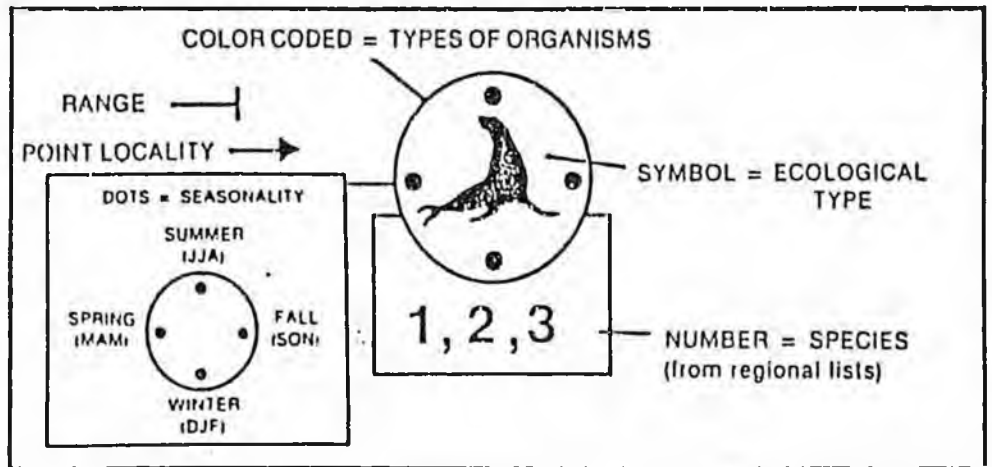
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Page 3 of 6

ENVIRONMENTAL SENSITIVITY INDEX NORTON SOUND, ALASKA

SHORELINE TYPES	BIOLOGICAL FEATURES
1. EXPOSED ROCKY HEADLANDS	MAMMALS
2. WAVE-CUT PLATFORMS	SEALS & WALRUSES
3. FINE-GRAINED SAND BEACHES	WHALES
4. COARSE-GRAINED SAND BEACHES	FISH
5. EXPOSED TIDAL FLATS (LOW BIOMASS)	SALMON
6. EXPOSED MIXED SAND AND GRAVEL BEACHES	HERRING
7. GRAVEL BEACHES	BIRDS
7a. SHELTERED MIXED SAND AND GRAVEL BEACHES	ALCIDS
7b. BASALT-BOULDER BEACHES	DIVING BIRDS
8. SHELTERED ROCKY SHORES	GULLS & TERNS
8a. ERODING PEAT SCARPS	SHOREBIRDS
9. SHELTERED TIDAL FLATS	WATERFOWL
10. MARSHES	SHELLFISH
	CLAMS
	EELGRASS

SENSITIVITY

KEY TO WILDLIFE MARKERS



SOCIOECONOMIC FEATURES

- | | |
|---|---|
| <p>MINING CLAIMS</p> <p> ONSHORE</p> <p> OFFSHORE</p> | <p> ARCHAEOLOGICAL SITES</p> <p> LANDING STRIPS</p> <p> PRIVATE LANDS</p> |
|---|---|

SPILL-RESPONSE INFORMATION

- BOOM LOCATIONS
 RECOMMENDED CLOSURE
 WASHOVERS

STATION LOCATIONS

- DETAILED SURVEY
 RAPID SURVEY

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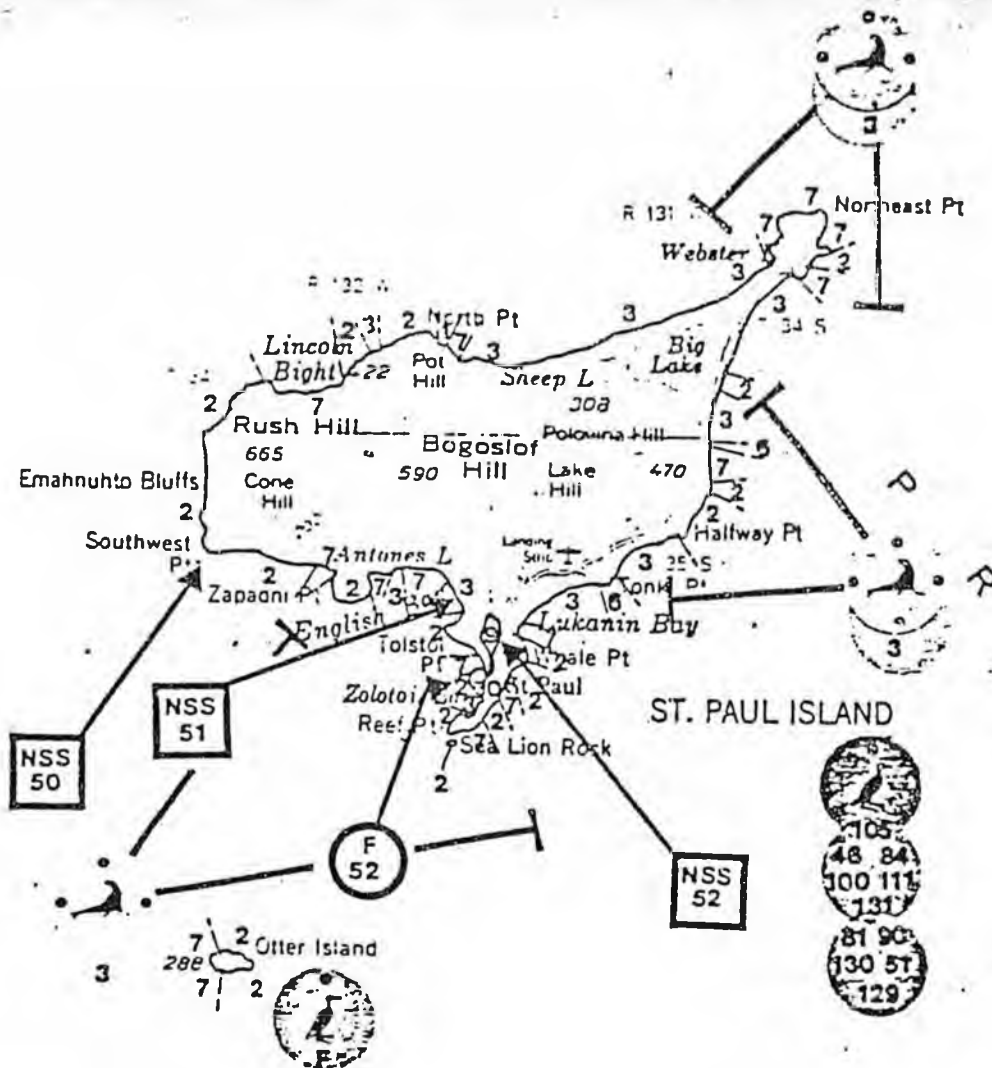


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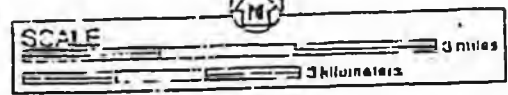
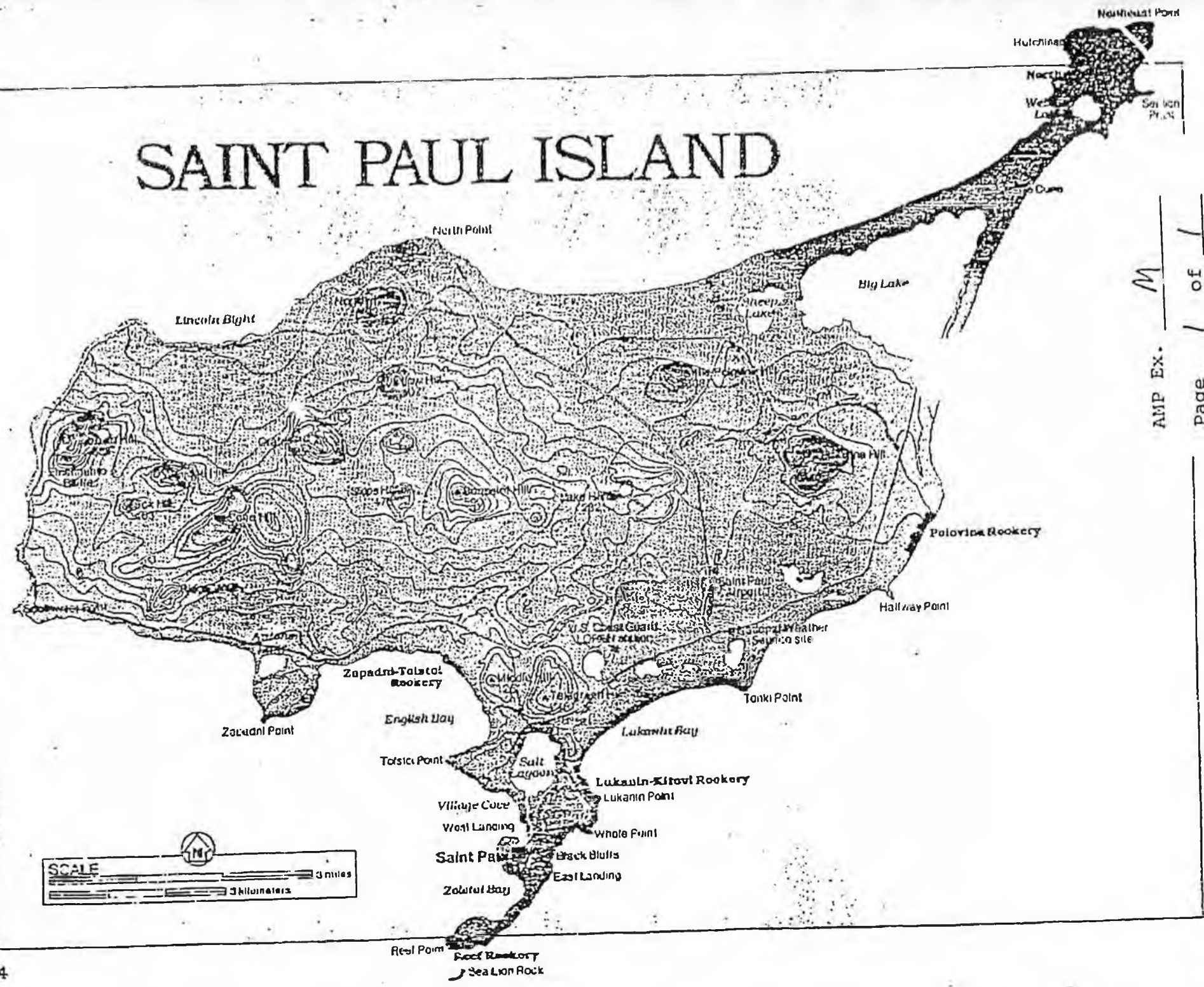
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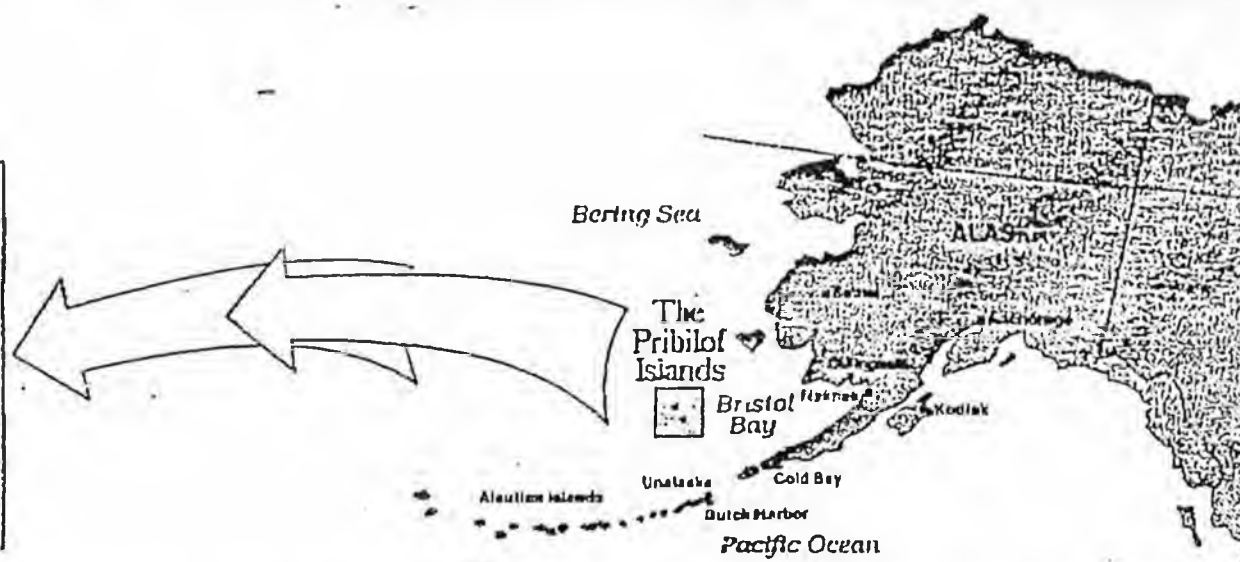
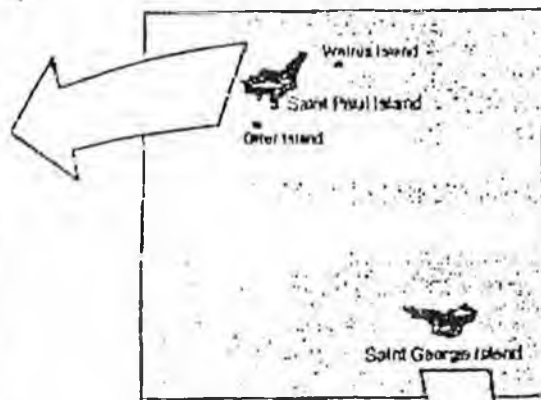
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 Page 6 of 6

B E R I N G

SAINT PAUL ISLAND

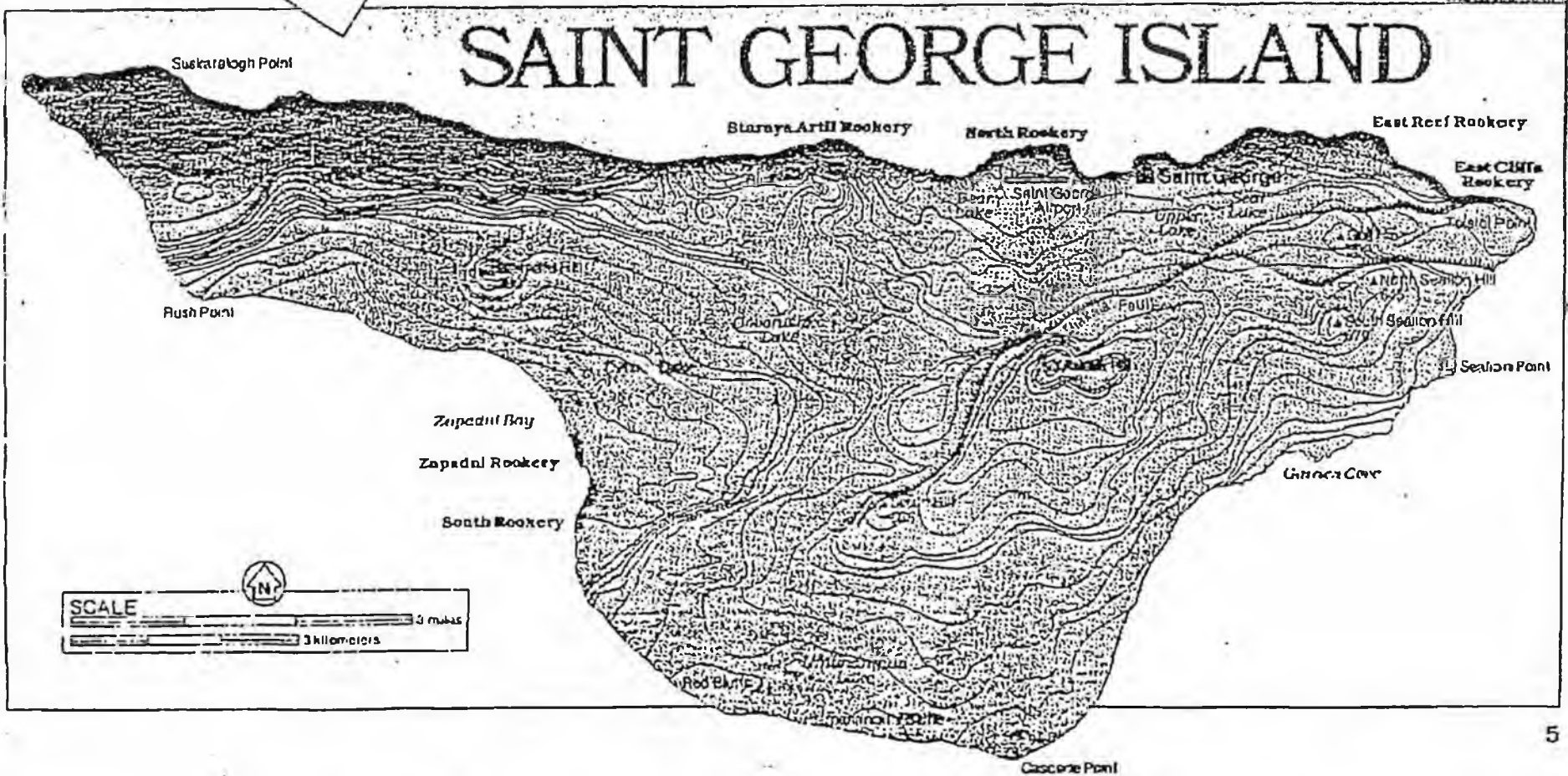


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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 27, 1992

Mr. Bob Watt
Chairman, Board of Marine Pilots
c/o Department of Commerce and Economic Development
P.O. Box D-LIC
Juneau, Alaska 99811-0800

Dear Mr. Watt,

The Alaska Region of the National Marine Fisheries Service (NMFS) was recently contacted by Mr. Tom Dundas of the Alaska Marine Pilots Association regarding any concerns our agency might have about the impact of vessels using the ports of St. Paul and St. George on northern fur seals.

With the recent development of these ports, vessel traffic around the islands has increased substantially. In last few years several vessel groundings occurred but fortunately none has resulted in oil spills that adversely impacted the fur seal stocks that reside on these islands. Although the NMFS does not know if the use of Alaska Marine Pilots would reduce vessel mishaps in the vicinity of these island's ports, the NMFS favors any action that reduces the possibility of these types of problems.

If you have any questions regarding fur seals on the Pribilof Islands, please contact Brad Hanson at 586-7233.

Sincerely,

Steven T. Zimmerman
Chief, Protected Resources
Management Division

AMP Ex. 0

Page 1 of 1





United States Department of the Interior

ALASKA MARITIME NATIONAL WILDLIFE REFUGE

202 W. Pioneer
HOMER, ALASKA 99603

IN REPLY REFER TO:

April 1, 1992

Mr. Bob Watt
Chairman, Board of Marine Pilots
c/o Department of Commerce and Economic Development
P.O. Box D-LIC
Juneau, Alaska 99811-0800

Dear Mr. Watt,

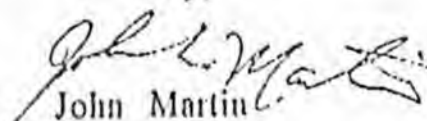
Our office was recently contacted by Will Anderson of the Alaska Marine Pilots Association regarding any concerns our agency might have about the impact of vessels on the Pribilof and St. Matthew Island areas.

All of Walrus, Otter and the cliffs on St. George and St. Paul in the Pribilof Islands are National Wildlife Refuges. Also, all of St. Matthew, Hall and Pinnacale Islands, 180 miles to the north, are National Wildlife Refuges. These areas were set aside because of their great wildlife significance, particularly for seabirds and marine mammals. Combined these areas contain nearly 4 million nesting seabirds and are the breeding grounds for hundreds of thousands of marine mammals.

Vessel grounding pose the threat of oil spills and the possible introduction of rats. Even a moderate size oil spill near these large colonies could conceivably kill more seabirds and marine mammals than the Exxon Valdez spill. The introduction of rats through shipwreck is a very significant danger and could be more disastrous, in the long run, than an oil spill. Once established, rats could not likely be eliminated. They would feed directly on birds and could transfer several disease to marine mammals.

The Fish and Wildlife Service favors any reasonable action that would reduce the likelihood of shipwrecks. This would include requirements for marine pilots if it were felt that this would reduce possibilities of these types of safety hazards. If you have any further questions about this issue, please contact me @ 235-6546.

Sincerely,


John MartinAMP Ex. P Page 1 of 1

U. S. DEPARTMENT OF THE INTERIOR
Minerals Management Service
Alaska OCS Region
P.O. Box 101159
Anchorage, Alaska 99510

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF THE INTERIOR
INT - 425



First Class

**PROPOSED NOTICE OF SALE
OIL AND GAS LEASE SALE NO. 89
OUTER CONTINENTAL SHELF
ST. GEORGE BASIN (SEPTEMBER 1985)**

AMP Ex. 1
Page 1 of 3

(i) Areas of Special Biological Sensitivity. Lessees are advised that certain areas are especially valuable for their concentration of marine birds, marine mammals, and/or fishes. The Fox Islands, Unimak Pass, the Pribilof Islands, Chagulak Island, and Moffet, Nelson, and Izembek Lagoons are among areas of special biological sensitivity to be considered under terms of the oil spill contingency plan section of Alaska OCS Order No. 7. The State of Alaska has also identified the Pribilof Islands and the Aleutian Chain. Lessees are advised that additional areas of special biological sensitivity may be defined by the MMS, other Federal Agencies, local coastal management programs, and by local and regional organizations such as the Coastal Resource Service Area (CRSA) Boards, planning offices, village councils, and regional non-profit corporations. Lessees are advised that the review of oil spill contingency plans may result in special measures being required to protect the areas' biological resources and associated subsistence values.

(j) Coastal Zone Management. Lessees are advised that the Alaska Coastal Management Program (ACMP) may contain policies and standards which may be relevant to exploration, development, and production activities associated with leases resulting from this sale. In addition, approved local CMP's which are part of the ACMP may contain more specific policies related to energy facility siting; areas with particular geologic hazards, subsistence uses, habitats, and transportation uses; and areas which have historic or prehistoric resources.

Coastal districts with approved CMP's may have policies applicable to ACMP consistency reviews of postlease activities. Coastal districts near the lease area engaged in program development or implementation include: Yukon-Kuskokwim CRSA, the Bristol Bay CRSA, and the Aleutians East CRSA, Bristol Bay Borough and the Cities of Bethel, Akutan, and St. Paul. Early consultation and coordination with the State and coastal districts involved in coastal management review is encouraged.

The MMS anticipates that the State will review exploration plans and development and production plans, and pipeline rights-of-way applications for consistency with the State CMP pursuant to section 307(c) (3) (B) of the Coastal Zone Management Act. As specified in section 307(c) (3) (B), the State has the right to disagree with the lessee's certification of consistency for the lessee's plans for exploration, development, and production, or pipeline rights-of-way applications and may recommend additional measures be taken by the lessee, as a condition of certification, that will ensure that the transportation, storage, and loading of produced oil is consistent with the ACMP.

(k) Bering Sea Biological Task Force. In the enforcement of the Protection of Biological Resources stipulation, the RSFO will receive recommendations from the Bering Sea Biological Task Force (BTF) composed of designated representatives of the MMS, the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service, and EPA. Representatives from the State of Alaska are encouraged to participate in the proceedings of the BTF. The RSFO will consult with the Bering Sea BTF on the conduct of biological surveys by lessees, and the appropriate course of action after surveys have been conducted.

AMP Ex. Q

Page 2 of 3

(l) Bird and Marine Mammal Protection. Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to, among others, the provisions of the Marine Mammal Protection Act of 1972, as amended; the Endangered Species Act of 1973, as amended; and International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment, and thereby be in violation of existing laws. With respect to endangered species, disturbance could be determined to constitute a "taking" situation and be in violation of the Endangered Species Act. Under the Endangered Species Act, the term "take" has been defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Violations under these acts and treaties may be reported to the National Marine Fisheries Service or the FWS, as appropriate. Behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if surface vessels maintained at least a 1-mile horizontal distance and aircraft maintained a 1,500-foot vertical distance from observed wildlife concentrations or from known wildlife concentration areas such as bird colonies and marine mammal haulout and breeding areas. Therefore, it is recommended that vessels operated by lessees maintain at least a 1-mile horizontal distance and that aircraft maintain a 1,500-foot vertical distance from observed or known wildlife concentrations.

Of particular concern are wildlife populations of the Pribilof Islands, Izembek Lagoon, and other coastal wilderness or refuge areas. For guidance regarding prohibited activities, attention of the lessees is directed particularly to existing National Wildlife Refuge System rules, 50 CFR Parts 27 and 215, and Part 36, rules for the Alaska National Wildlife Refuges (46 FR 31818, June 17, 1981), wherein 50 CFR 36.21(c) states: "The operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited."

To reduce potential effects to all cetacean species from noise and disturbance associated with vessel and aircraft activities, lessees are encouraged to reduce, minimize, or reroute vessel and/or aircraft operations to and from the lease area by aircraft and/or marine vessels. This includes aircraft, tugs, barges, supply ships, hovercraft, or other self-propelled surface vessels when whales are likely to be in the area. Lessees are advised that operations including geophysical surveys may be restricted or suspended, if appropriate, by the RSFO, on any lease, whenever endangered whales are present in the area or sufficiently near to be subject to disturbance from offshore oil and gas activities which would be likely to constitute a "taking" situation. A Notice to Lessees (NLL) has been issued to specify performance standards before any preliminary activities may be conducted on a lease. Human safety will take precedence at all times over these provisions.

Maps locating major wildlife concentration areas in the lease area are suitable for general route planning and are available from the RSFO.

(m) Aleutian Canada Goose. Lessees are advised that the Aleutian Canada goose (Branta canadensis leucopareia) is listed as an endangered species by the U.S. Department of the Interior (16 U.S.C. 1531 et

AMP Ex. 1

Confirm. Hrgs.

Brd. of

Marine

Pilots, 1991

MARINE PILOTS

MEMBER	APPT	REAPT	REAPPT	TERM
Ann Boudreaux DCED/P.O. Box D Juneau 99811 Commissioner/DCED	0/00/00	0/00/00	0/00/00	0/00/00
✓ Dale Collins P.O. Box 6100 Ketchikan 99901 Pilot/Southeast	91/06/12	0/00/00	0/00/00	95/06/01
✓ Keith Greba 504 Monastery Street Sitka 99835 Public	91/06/12	0/00/00	0/00/00	95/06/01
William C Lorch P.O. Box 19-0224 Anchorage 99519 Agent	88/10/28	0/00/00	0/00/00	92/06/01
Michael J O'Hara P.O. Box 1443 Palmer 99645 Pilot/Southwest	89/08/28	0/00/00	0/00/00	93/06/01
Russell M Sell 1727 West 11th Street Anchorage 99501 Public	88/10/28	0/00/00	0/00/00	92/06/01
✓ Bob Watt 6227 S. Tongass Ketchikan 99901 Agent	91/07/22	0/00/00	0/00/00	94/06/01

February 10, 1992

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Grussendorf:

In accordance with AS 39.05.080 and Article III, Sections 25 and 26, of the Alaska Constitution, I submit the following names for legislative confirmation of appointment to the positions noted:

Alaska State Board of Public Accountancy

Elaine Damm - Kodiak
Term began 11/14/91 expires 4/25/92
Bruce J. Ogle, CPA - Anchorage
Term began 8/14/91 expires 4/25/92
Jean B. Schmitt, CPA - Fairbanks
Term began 11/4/91 expires 4/25/93
Bradley L. Shaffer, CPA - Sitka
Term began 8/14/91 expires 4/25/93
Joanne Stoots - Fairbanks
Term began 1/27/92 expires 4/25/95
John C. Swalling, CPA - Anchorage
Term began 7/17/91 expires 4/25/95

Alcoholic Beverage Control Board

William M. Bishop - Kodiak
Term began 1/14/92 expires 1/31/93
W.E. "Brad" Bradley - Anchorage
Term began 1/31/92 expires 1/31/95
James B. Elkins - Ketchikan
Term began 6/12/91 expires 1/31/94
James J. McNamee - Fairbanks
Term began 5/12/91 expires 1/31/94

The Honorable Ben Grussendorf
February 10, 1992
Page 4

State Commission for Human Rights

Edna DeVries - Palmer
Term began 2/1/92 expires 1/31/97

Commission on Judicial Conduct

Patrick T. Brown - Fairbanks
Original term began 4/10/87 reappointed 7/17/91
expires 4/28/95
Susan A. Burke - Juneau
Term began 7/17/91 expires 4/28/95
Sharon Nahorney - Anchorage
Original term began 7/16/91 reappointed 1/1/92
expires 12/31/95
Kenneth E. Peavyhouse - Anchorage
Term began 11/14/91 expires 12/31/94

Judicial Council

Jim A. Arneson - Anchorage
Term began 10/4/91 expires 5/18/95

Alaska Labor Relations Agency

James W. Elliott - Anchorage
Term began 1/22/92 expires 6/30/94

Board of Marine Pilots

Dale O. Collins - Ketchikan
Term began 6/12/91 expires 6/1/95
Keith Greba - Sitka
Term began 6/12/91 expires 6/1/95
Robert M. Watt - Ketchikan
Term began 7/22/91 expires 6/1/94

Board of Mechanical Examiners

Jack B. Wilbur, Sr. - Fairbanks
Term began 7/17/91 expires 6/9/94

State Medical Board

Noel W. DeVries - Palmer
Term began 12/9/91 expires 8/13/92

APR 13 '92 12:14PM CITY OF ST PAUL

APR 13 1992 B P. 2/3



CITY OF SAINT PAUL.

POUCH 1
SAINT PAUL ISLAND, ALASKA
99660
(907) 546-2331
Telecopy (907) 546-2365

IN REPLY
REFER TO

April 13, 1992

Senator Fred Zharoff
Room 416, Capitol Building
P.O. Box V
Juneau, AK 99811

FAX: 463-3043

RE: Alaska Board of Marine Pilots

Dear Senator:

This is to confirm my telephone conversation with your staff this morning. I am looking forward to meeting with your staff Tuesday, April 14, at 11 AM.

465-3242

your
and/or

The Alaska Board of Marine Pilots (ABMP) has received public comments on Wednesday, April 15, 1992 regarding a proposal submitted to them by the Marine Pilots Association (MPA). What the MPA is proposing is to extend compulsory pilotage waters around the Pribilof Islands out to 3 miles around the Islands. We suggest one of the following:

1. No designated zone/zones around the Pribilof Islands, or
2. With the zone already in place, no additional designations, or
3. A cost/benefit and economic impact analysis be done before considering any further designations.

Currently, there is a designated zone between Zapadni Point and Reef Point which is on the harbor side of the Island.

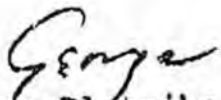
Should the ABMP accept the proposal as submitted by MPA, representatives of the floating processing industry that do business in our waters have indicated that the added expense of doing business around the Pribilof has the potential of forcing them to go elsewhere in order to remain competitive in the market. Should this happen, the loss of much needed revenues to our communities will be lost. At a time when the State and Federal governments are cutting back on revenues, we feel this will be devastating to our developing economy.

Senator Zharoff
Page Two

We respectfully request that you support our position with the ABMP to not act on this proposal from the MPA.

We are looking forward to meeting with you.

Respectfully,


George Platnikoff
Admn. Asst.

cc: Representative George Jacko Jr.



Alaska Coastwise Pilots' Association

P.O. BOX 22694
JUNEAU, ALASKA 99802
PHONE: (907) 586-2272
FAX: (907) 463-3773

*Marine Pilotage
Dispatch Service*

Ketchikan Office
PHONE: (907) 225-7243
FAX: (907) 247-4568

April 13, 1992

Governor Walter J. Hickel
P.O. Box K
Juneau, Alaska 99811

HAND DELIVERED
COPY BY CERTIFIED MAIL

Re: Alaska Coastwise Pilots' Association
Our file no. 2102.3

Dear Governor Hickel:

Attached are copies of letters which have been circulated to all deck officers employed by the State of Alaska Marine Highway System. We believe these letters were written and circulated at the request of, and in combination with, your appointee to the State Marine Pilot Board, Dale O. Collins; the International Masters, Mates & Pilots' Union; and the Southeastern Alaska Pilots' Association ("SEAPA"), of which Collins is a member and past officer.

These letters seek to discourage Marine Highway System deck officers from working with ACPA and to prevent ACPA trainees from obtaining training trips on the state ferries necessary to qualify for their United States Coast Guard and State of Alaska licenses. Recent events confirm this intent with a vengeance.

This spring, Captain Kathleen Rathgeber began participating in the ACPA's training program for prospective deputy marine pilots. Captain Rathgeber has excellent credentials. She is a graduate of the U.S. Merchant Marine Academy at Kings Point, New York; is licensed as Master of Ocean Steam or Motor Vessels of Any Tons; and has served in all capacities up to staff captain of cruise ships.

Honorable Walter J. Hickel

p. 1

Until this week, Captain Rathgeber was riding the State of Alaska, Marine Highway System's M/V TAKU as a pilot observer, in order to obtain the area exposure and recency trips necessary for her license. It was our understanding, based on assurances from Captain Kelly Mitchell of the Marine Highway System, that she was welcome to ride the M/V TAKU as part of her effort to obtain a pilot's license.

This changed when the attached letter from the IOMM&P was circulated last week to all deck officers employed by the State of Alaska's Marine Highway System. When the M/V TAKU docked in Ketchikan this week, this letter was delivered to the vessel's deck officers. Your appointee to the State Pilot Board, Dale O. Collins, then apparently met with the Captain of the M/V TAKU.

After meeting with your appointee, the Captain of the M/V TAKU advised Captain Rathgeber that he would no longer sign her trip logs or otherwise assist her in her efforts to obtain the training required for a state pilot's license. He advised Captain Rathgeber that all other deck officers employed by the State of Alaska's Marine Highway System would join in the boycott of her efforts to obtain this necessary training. At his suggestion, Captain Rathgeber left the M/V TAKU at Auke Bay.

It is our belief that the IOMM&P circulated the attached letter at the request of, in combination with, and in furtherance of certain illegal, monopolistic or tortious goals of Collins and SEAPA. The letter interferes in contractual relations between ACPA, its associated pilots, and its customers, and is the latest in a pattern of practice by the Union, Collins and SEAPA aimed at injuring our business efforts.

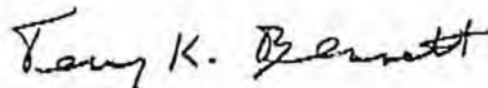
Now, as you can see from the second attached letter from the Captain of the M/V TAKU to the deck officers of the ferry system, the State of Alaska has become engaged in these efforts to injure, defame, and destroy our business. It is highly inappropriate for public employees, operating public facilities, and employed by a public agency to participate in these collusive actions.

The members of ACPA have built our business to what it is today by our own hard work and our steadfast dedication to the highest standards of our profession. To meet our high standards, and to obtain their licenses, ACPA pilot trainees need a full and fair opportunity to ride the ferries of the Alaska Marine Highway System.

If given the chance, Captain Kathleen Rathgeber will be a valuable addition to the marine pilot profession in Alaska. But Captain Rathgeber needs that chance, which you can provide by directing the Alaska Marine Highway System to open its bridges to all pilot trainees, without any form of discrimination.

We trust that you believe in private enterprise and, pursuant to our rights under Article I, Section 6 of the Alaska Constitution, we petition you to take all appropriate steps to immediately resolve this issue.

Respectfully,



Captain Terry K. Bennett
President
Alaska Coastwise Pilots' Association

cy: Burton Epstein, Esq.
General Counsel
International Masters, Mates & Pilots Union

Mr Bob Watt,
Chairman,
State Board of Marine Pilots

James R. Ayers
System Director
Captain Kelly Mitchell
Port Captain
Alaska Marine Highway System

Tuckerman Babcock
Director, Boards and Commissions
Office of the Governor

Charles E. Cole, Attorney General
Bruce M. Botelho, Deputy Attorney General
Gary I. Amendola and Jack B. McGee, Assistant
Attorneys General
Department of Law

Captain Carl Luck
Marine Pilot Coordinator
Department of Commerce and Economic Development

Honorable Virginia Collins
Honorable Rick Halford
Honorable Jim Duncan
Alaska State Senate

Honorable Dave Donley
Honorable Bill Hudson
Honorable Fran Ulmer
Alaska House of Representatives

APR-14-92 TUE 11:52

DILLON & FINDLEY

FAX NO. JJ75863777

P. 07

Apr. 13 '92 15:27

6666 ACPA-WOODINVILLE

TEL 206-485-6683

P. 1

04-10-1992 15:13

967 225 2104

WHITE PASS ALASKA

P. 21

MV TAKU
8 APRIL, 1992

MM & P MASTERS/MATES
ALASKA MARINE HIGHWAY

SHIPMATES:

THE TEMPERATURE RISES IN THE DIRTY LITTLE PILOT WAR OVER
SOUTHEAST TURF. IT IS A DAMN SERIOUS BATTLE THAT ALREADY
INVOLVES EVERY ONE OF US.

AFTER MEETING WITH T. BENNETT, M. SPENCE, AND D. COLLINS
THIS PAST WEEK, I AM CONVINCED THAT OUR MARINE HIGHWAY JOBS
ARE AT RISK. MOST (NOT JUST ONE) OF THE S.E.A. PILOTS ARE
INCENSED ENOUGH TO RAID OUR POSITIONS SHOULD THEIR GROUP GO
DOWN (TURPIN LOVES IT!). THEY HAVE GOOD REASON TO BE
PASSIONATELY PISSED; THEIR UNION "BROTHERS" (OUR
CO-WORKERS) HAVE HELPED STEAL THE SWEETEST CRUISE SHIP
CONTRACT, WHILE ON "VACATION" FROM THESE JOBS AND SECURE
UNDER OUR HEALTH AND WELFARE UMBRELLA. LIKE MOST MARRIAGES,
THIS BREAK WITH THE S.E.A. PILOTS IS LARGELY THE RESULT OF
MISUNDERSTANDING AND POOR COMMUNICATION.

DOUG, CHUCK, JOHN! SIT DOWN AND TALK TO DALE AND COMPANY,
YOU WILL, EVENTUALLY--BETTER NOW BEFORE ANY MORE BLOOD
FLOWS. SURRENDER YOUR EGOS AND DO WHAT YOU KNOW IS RIGHT
BEFORE YOU FURTHER TEAR THESE MEMBERSHIPS APART. DO NOT
MAKE THE MISTAKE OF UNDERESTIMATING THE THREAT TO THESE
JOBS.

FOR MY PART, I REFUSE TO SIGN ANOTHER PILOTAGE TRIP UNTIL
THE PILOT GROUPS ARE ONE. I ASK MY COLLEAGUES TO FOLLOW
LYNESS' LEAD AND DO THE SAME. THE TAKU PILOT OBSERVER
LEAVES THE SHIP IN AUK BAY THIS MORNING. GLAD, I BELIEVE, TO
BE SPARED MORE GRIEF.

HERE'S TO SANITY NOW, NOT LATER!

VERY SERIOUSLY,

SAEP

K. SCHORPPE

Apr. 8 '92 12:17

6666 ACPA-WOODINVILLE

TEL 206-485-6683

P. 2

SENT BY: F. C. A.

4-8-92 10:47AM

F. C. A. +

206 485 8603# 2

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS

PACIFIC MARITIME REGION

2819 First Avenue, #100 * Seattle, Washington 98121-1128 * Telephone: (206) 441-1070 * FAX: (206) 443-8752



March 31, 1992

TO: Deck Officers of the Alaska Marine Highway System

Dear Fellow Deck Officer:

I am writing to you regarding the piloting situation in Southeast Alaska. I am sure most of you are aware of the non-recognized pilotage group that has split away from the Southeast Alaska Pilotage Association, which has been recognized by the International Organization of Masters, Mates and Pilots since its inception. Three members of the Pacific Maritime Region employed by the Alaska Marine Highway System, as well as members of other membership groups, have agreed to perform pilotage services for this new split-off pilot group. I have also recently heard that a number of other Deck Officers of the Alaska Marine Highway System are considering working as pilots for this splinter group in the near future.

The International Organization of Masters, Mates and Pilots is very concerned that if this situation with the Pilots continues or worsens, it will have a tremendous repercussion on the jobs and working conditions of all Deck Officers employed by the Alaska Marine Highway System.

Your Union is asking for solidarity and the support of all Deck Officers regardless of membership group in order to help resolve this situation.

I am deeply concerned that any member continuing to work, or any other members accepting employment with this new splinter group, will cause a reaction against our jobs that we may not be able to stop.

This Organization supports one Pilotage Group in Southeast Alaska under the umbrella and affiliation with the International Organization of Masters, Mates and Pilots and will continue efforts to bring the parties involved together in negotiations to resolve their problems.

Fraternally,

CAPTAIN DAVID A. BOYLE
Vice President
Pacific Maritime Region

DAB:s

cc: General Executive Board
Mr. Burton Epstein General Counsel

* CHARGES WILL BE FILED AGAINST IIMS DMM-P MEMBERS WHO CONTINUE TO WORK FOR THE AK. COASTWISE PILOTS.

PERSONAL RESUME --- ROBERT M WATT
11/90

PERSONAL

Home address:
6227 S. Tongass
Ketchikan, Alaska 99901
Phone (907) 225-2795
Date of Birth: June 19, 1940
Married: wife - Nancy M. Watt
Children: 2 sons, ages 18 & 13
Health - good
Height: 5' 6"
Weight: 156 lbs.
Citizenship: American

EDUCATION

1968 B.A. (cum laude) - Univ. of Victoria, Victoria, B.C.
Major - Urban Geography
Post Graduate: Studied toward M.A. at Univ. of Alberta, Edmonton,
Major - Urban Geography & City Planning with special interest in Alaskan
ports of Anchorage and Skagway

MILITARY SERVICE

Served in the Royal Canadian Air Force and was honorably discharged

WORK EXPERIENCE

Jan. 1987 - Present
Vice President of West Coast Stevedoring Corp., a wholly owned subsidiary of Klukwan, Inc., responsible for the marine division. During this period of rapid growth of the whole corporation, there were two main areas of responsibility. One was for the tugs and barges that the company bought and/or leased and then operated. This involved hiring, training, dispatching and firing of the tug crews as necessary; scheduling the work for the boats around customer demands, tides and weather; and finally, preparing the payrolls and invoicing for others to finalize. The second area was the corporation industrial wire rope, and related hardware, purchases manufacturing, sales, delivery and invoicing. These two fields require tenacity, leadership, detail knowledge, and managerial skills. To accomplish the specific tasks, remain profitable, be aware of shareholder-hire preference and maintain a safe work environment demands long hours, patience and ambition.
Specific experience was gained with the 1989 oil spill in Prince William Sound, purchasing a crew boat, several tugs, a fuel barge from Hawaii, plus leasing a variety of equipment.
In November/December 1990, the U. S. Coast Guard invited me to participate in Oil Spill Disaster Plan Preparation in Yorktown, Va. and Juneau.
Supervisor: Mr. Derry Howard, CEO, West Coast Stevedoring, Juneau

March 1983-December 1986

General Manager of Saxman Soapport, a municipally owned enterprise. In this 3 year period, the average monthly income was increased by 250% while the operating expenses were significantly reduced. The 1983 profit was the first profit made by the facility in 18 years. A sound working knowledge of governmental budget process was refined and an ability to communicate, verbally and in writing was frequently tested. The owners, the City of Saxman, are over 90% Natives so an understanding of a minority's values (as they relate to ownership and operation) was acquired. Specific examples of responsibilities included: all personnel functions; negotiating short and long term leases; working with a variety of local, state and federal agencies to resolve problems of the present and of 20 years' standing; and responsibilities of day to day supervision from design to bid process to construction of five capital improvement projects.

Supervisor: None. Worked directly for the Mayor and Saxman City Council.

May 1980-Feb. 1983

Terminal Manager of the Ketchikan Ferry Terminal. During this short period many positive changes in employee attitude and physical appearance of the building were accomplished. Also, the terminal operations were vastly improved to the betterment of the traveling public, the customers and the employees.

May 1977-May 1980

Personnel Assistant in charge of the Ketchikan personnel office for the Alaska Marine Highway.

Nov. 1974-May 1977

Terminal Assistant and Assistant Manager of the Ketchikan Ferry Terminal

April 1974-October 1974:

Owner and sole operator of Bob Watt Agencies.

Contracted with two cruise ship companies to provide line-handlers in all southeast Alaska ports. Required hiring from various union halls, knowledge of the respective contracts and an ability to negotiate, resolve disputes and generally foster a good working relationship with the employees.

Sept. 1970-March 1974

Office Manager and Manager of Agency Services for Southeast Stevedoring Corp. of Ketchikan.

Responsible for the details of arranging for cruise ship requirements through out southeastern Alaska, as well as responsible for the majority of specialty cargo vessels into Haines, Skagway, and Castle Island. An intimate knowledge of union contracts, pilot rate structure, tug tariffs and other related cost factors was necessary in order to fulfill the function of minimizing port call costs. As Office Manager the responsibility was primarily in supervising the preparation of monthly and quarterly reports as required by law and contract.

Supervisor: Mr. Cliff Taro, Pres., Southeast Stevedoring Corp.

May 1966-Sept. 1970

Various positions with Westours, Inc. of Seattle in their Alaskan field operations. These were summer jobs while attending university and varied

from driving local sightseeing busses in Anchorage to driving cross-country busses from Seattle to Whitehorse, Fairbanks, Anchorage, Haines, etc. to being District Manager and Hotel Manager in Skagway, Alaska. Last position held was Manager of the Klondike Hotel in Skagway and agent for their cruise ships at that port.

Supervisor: Mr. Ken Friske (no longer with company). For reference, please contact Jack Musiel or Chuck West, previous president of Westours, now president of TravAlaska Tours.

PERSONAL BACKGROUND

Born in England. Immigrated with parents to Canada in 1948 and grew up in Victoria, B.C. Arrived in Alaska permanently in 1966, and lived in Anchorage and Skagway prior to moving to Ketchikan in 1970. Became a U.S. citizen in 1973.

Interests are in Alaskan history and renovating old buildings. In 1975 restored "Dolly's House" on Creek Street in Ketchikan and created a private museum which is still in operation.

COMMUNITY SERVICE AND ELECTED POSITIONS

Served 6 years on the Ketchikan Gateway Borough Assembly (1975-1981)
Past President of the Ketchikan Visitors Bureau (1976)
Received the Rainbird Award for Outstanding Volunteer from Ketchikan Visitors Bureau - 1981
Vice Mayor of Ketchikan Gateway Borough 1980-1981
Past President of Herring Bay Water Users Assoc.
Past Chairman of Board, South Tongass Volunteer Fire Dept.
Past Board Member of Southeast Alaska Health Systems Agency
Soccer League coach, Jr. League - 2 yrs.
Past Board Member, Mt. Point Water Service District
Past Board Member, Ketchikan Rotary Club
Individual Member, Ketchikan Chamber of Commerce
Past President, Ketchikan Republican Club - 2 yrs.

M E M O R A N D U M

TO: Alaska Board of Marine Pilots
VIA FAX 465-2974

FROM: Alaska Marine Pilots

RE: Proposed Regulations 12 AAC 56.021(b) and (c)

DATE: April 10, 1992

This memorandum presents the view of Alaska Marine Pilots ("AMP") respecting proposed regulations 12 AAC 56.021(b) and (c).

SUMMARY

Proposed regulation .021(b) is a redraft of the existing language. After it was put out for public comment and thereafter adopted by the Board at its January 1992 meeting, this subsection was redrafted by the Office of the Attorney General ("AG"). According to Mr. Amendola, the redrafting was not supposed to change the regulation in any substantive way. However, without questioning the AG's intent, AMP contends that the change is substantive and substantial. AMP asks the Board either to adopt the subsection in its original form or put it out for public comment again.

Proposed regulation .021(c) was first adopted by the Board at its Fall 1991 meeting, put out for public comment, and adopted unchanged at the Board's January 1992 meeting. The AG has indicated it will recommend to the lieutenant governor that the regulation as written is contrary to law and therefore unenforceable, and consequently should not be approved by the lieutenant governor. AMP strongly urges the Board not to change this subsection, and by this memorandum urges the AG to reconsider its position and approve the subsection as written.

Memo to Alaska Board of Marine Pilots
From Alaska Marine Pilots
Re: Regulations 12 AAC 56.012(b) and (c)
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SUBSECTION .021(b)

As originally adopted, .012(b) read: "Each exemption, addition, or endorsement to a marine pilot license must be identified on the license." As rewritten by the AG's office, it reads:

(b) An exemption to a license for a pilotage region will be identified on the license for the parts of the region that the licensee is determined by the board as not qualified to pilot or the pilot does not seek licensure. An endorsement for an extended route will be identified on the license if the board issues an endorsement under this chapter.

The words "or the pilot does not seek licensure" is a significant substantive change in the regulation as adopted by the Board. AMP can see no justification in the statute or any regulation adopted by the Board for adding these words to the regulation.

The reason this is significant is that implies that pilots may make an election not to seek licensure in all of a region. AMP strongly urges the Board to adopt a policy that a pilot must have full federal and state pilotage in order to obtain an unlimited pilot's license under AS 08.62.100. There is no doubt that the Board has the authority to impose this requirement.

(AMP is aware that the statute no longer refers to anything called an "unlimited license." However, for the sake of discussion, AMP refers to the license contemplated by AS 08.62.100 as an "unlimited" license, distinguished from the deputy marine pilot license contemplated by AS 08.62.097.)

Furthermore, AMP urges the Board to impose a requirement that deputy marine pilots holding less than full state and federal licensure for a region make reasonable progress toward full licensure. In other words, the requirement should be that a deputy marine pilot will obtain the unlimited license within a reasonable time, or lose his deputy license.

The policy objective here is to ensure that each pilot eventually becomes fully licensed in his or her region, and therefore is able to provide pilotage services to all vessels in all ports of the region, at all times of the year, day or

Memo to Alaska Board of Marine Pilots
From Alaska Marine Pilots
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night. The state's interests are not served by permitting a pilot to become licensed in one or two high-volume, high-profit ports in a region, to the exclusion of the other lower-volume, lower-profit ports. If the state permits that kind of "cherry picking," pilots and pilot groups will have a strong economic incentive to work and compete only in the profitable ports. In fact, it will become an economic imperative to do so. It will become economically impossible to provide service to remote, unprofitable ports and still stay in business.

For this reason, the words "or the pilot does not seek licensure" should not be included in the regulation. Clearly, this phrase represents a significant substantive change from the regulation that was put out for public comment and then adopted by the Board in January. The Board must either insist that the regulation be written as originally adopted, or must put this new version out for full public comment. In AMP's view, the Board cannot legally adopt this substantive change without going through the entire process.

SUBSECTION .021(c)

This is what has become known as the "cross-regionalization" issue. Some pilots and industry representatives are strenuously urging the Board to adopt a regulation that will permit pilots to cross regional lines freely. AMP strongly urges the Board to resist this pressure, and to maintain the tough regional restrictions contemplated by the legislature in HB 194.

The current language of 12 AAC 56.012(c) was suggested by AMP and thereafter adopted by the Board at its Fall 1991 meeting. It was put out for public comment, then adopted unchanged at the Board's January 1992 meeting:

(c) A pilot may not be licensed in more than one region at a time unless the board determines that the members of the organization or organizations of that region do not have a sufficient number of qualified members to provide the kind of pilotage in the region that will assure the protection of shipping, the safety of human life and property, and the protection of the marine environment.

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From Alaska Marine Pilots
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The need for this regulation arises from AS 08.62.080(b), which provides:

A pilot may not be licensed in more than one pilotage region at one time, unless the board determines that it is in the best interests of the state to license pilots for parts of more than one pilotage region.

The regulation proposed by AMP and adopted by the Board was intended to define what constitutes "the best interests of the state."

The AG has indicated it will disapprove this section if the Board does not withdraw it. The AG's reasons are set out in a memo of March 20 from Mr. Amendola to Assistant AG Deborah E. Behr, and a subsequent memo dated March 20 from Ms. Behr to the Board. The bottom line is that the AG views this language as "anti-competitive" and therefore prohibited by AS 08.62.040(d). Subsection .040(d) provides that the Board may not adopt a regulation "resulting in anti-competitive practices that, if the board were subject to AS 45.50.562--45.50.596, would violate AS 45.50.562--45.50.596."

AMP respectfully contends that the AG is wrong in its determination that the current language of 12 AAC 56.021(c) is anti-competitive. AMP's threshold problem with the AG's position is that there is no discussion whatsoever in their legal memoranda to the Board explaining why the language would violate AS 45.50.562 -- .596. We can find no indication that the current language does violate any anti-trust provision of Alaska law. Without any discussion by the AG in its memoranda, it is impossible to determine where the violation might lie.

In AMP's opinion, the AG's memos gloss over the express language of AS 08.62.080(b). As written, the statutory presumption is that pilots shall not pilot in more than one region at a time UNLESS an exception must be made to serve the state's best interests. In other words, the presumption is in favor of the restriction, not in favor of the exception. The AG seems to be reading it the other way around: Mr. Amendola and Ms. Behr seem to be arguing that pilots should be able to pilot in more than one region at a time UNLESS they cannot demonstrate an ability to do so safely. This improperly reverses the language of the statute.

There is nothing in the regulation or the underlying statute that prevents a pilot from competing in any region in which he chooses to compete. However, it is undeniable that AS

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08.62.080(b) creates a heavy presumption against allowing them to compete in two or more regions at the same time. The legislature obviously balanced the state's interest in unfettered competition against its interest in promoting local expertise. It enacted Section .080(b), together with mechanism for creating smaller pilotage regions, for the purpose of making sure that pilots do not spread themselves too thin. This is a safety-promotion measure well within the legislature's police powers.

The existing language of 12 AAC 56.021(c) is not "anti-competitive" except in the most literal sense -- that is, in the sense that the entire statute is "anti-competitive" because it does not permit unfettered and unregulated marine piloting. In that sense, the entire statutory scheme is "anti-competitive": no one can pilot without a license, and that very fact means that piloting is not purely competitive. Under the current scheme, a pilot is also restricted in where he can work, with whom he can work, and how much he can charge. It follows that the mere regulation of pilots cannot be construed as inherently "anti-competitive." If it were, the entire statute would have to be thrown out. In the context of AS 08.62.040(d), the term "anti-competitive" has to mean something more than "regulated" or "restricted."

AMP remains convinced that the regulation must define what constitutes the state's interest in deciding whether a pilot can pilot in more than one region at a time. It is not the interests of pilots or of industry that are to be considered, but the interests of the state alone. What are the state's interests? The statute spells it out at AS 08.62.040(a): safe and efficient pilotage service to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment. These are the state's only interests in piloting, and the entire statutory and regulatory scheme is aimed at furthering these specific enumerated interests.

As long as these specific state interests are being adequately served by the pilots who are already working exclusively in a region, then Subsection .080(b) makes it clear that there is no justification for permitting a pilot from another region to work in both regions at the same time.

Put another way, as long as the state's interests are being adequately served in a region by the pilots working exclusively in that region, then Subsection .080(b) expresses the state's overriding interest in preventing pilots from other

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regions from diluting their expertise by trying to work in two regions simultaneously.

Put yet another way, as long as the state's interests are being adequately served in a region by the pilots working exclusively in that region, then permitting pilots from other regions to work in that region serves only their own economic interests and the economic interests of industry, to the detriment of the state's interest in promoting safety by restricting pilots to one region at a time.

With all that in mind, we must disagree with the AG's office in its suggestion that the state's interest in this matter is only to make sure that pilots pass some tests and maintain their currency. Quoting from Ms. Behr's March 20 memo:

The board may consider adopting more frequent examinations, enhanced continuing education requirements, or local experience requirements for pilots licensed in two or more regions.

If that were the legislature's intent, they never would have enacted Subsection .080(b). What the AG's office proposes is no change from the prior statutory and regulatory scheme, which placed no limitation on where a pilot could work, so long as he passed the proper tests. A basic rule of statutory construction is that the legislature is never presumed to have enacted a law without a reason. If the effect of a new law is to change existing law, it must be presumed that the change was intended.

In this case, the prior law consisted of a statute that did not even mention pilotage regions, and a regulation (existing 12 AAC 56.021(a)) that divided the state into two "licensing areas." There was no restriction on any pilot who wanted to work in both "licensing areas" as long as he passed the tests required by the board.

Contrast the old statute with the new legislation. The new legislation included a statement of policy setting forth a legislative finding that

in order to assure the protection of lives and property and the marine environment of the state, licensed marine pilots having extensive local knowledge are required to pilot certain vessels on the inland and coastal waters of and adjacent to the state.

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HB 194, Sec. 1(b)(1) (emphasis added). Without doubt, the legislature was interested in encouraging "extensive local knowledge." The statement of policy goes on to say that the legislature found that

it is necessary to give the Board of Marine Pilots broad statutory authority, including the authority to establish pilotage regions

HB 194, Sec. 1(b)(5). The statute itself directs the Board to adopt regulations establishing pilotage regions, and provides that the Board may adopt regulations establishing standards for permitting a pilot to work in more than one region at a time. AS 08.62.040(a)(4)(A) and .040(b)(4). Finally, the new legislation establishes a strong presumption against allowing pilots to work in more than one region at a time. AS 8.62.080(b).

These are substantial changes from the law as it existed prior to the passage of HB 194. The Board and the AG must look at the presumption against "cross-regionalization" as a significant change in the law that was intended by the legislature.

In adopting the current language, AMP believes that the Board has properly exercised the broad authority conferred upon it by the legislature. AMP questions the authority of the AG's office to interfere in this exercise of authority, where the legislature clearly intended that the collective expertise of the Board was to be given great weight. On what is essentially a safety issue, the AG appears to have substituted its determination of what constitutes the state's best interests for that of the Board.

From AMP's perspective, the real issue here is defining what is meant in Subsection .080(b) by "the best interests of the state." We remain convinced that the board MUST look to the rest of the statute to define those interests, and as mentioned above, the statute defines those interests in terms of protection of shipping, of human life and property, and of the marine environment. If one reads Subsection .080(b) as raising a strong presumption against "cross-regionalization" (and AMP insists it must be read that way), then it necessarily follows that cross-regionalization will not be allowed so long as the pilots already working exclusively in a region are meeting those interests.

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In discussing how best to serve the state's interests in marine piloting, the Board cannot lose sight of economic realities. Alaska will only have a corps of experienced professional marine pilots if pilots have reasonable assurance of job security and of compensation comparable to others in their profession. This is every bit as much of a safety issue as drawing charts and passing tests. Alaska cannot afford regulatory policies that drive the best marine pilots to other areas of the country or out of the profession altogether.

If the board permits multi-regional licensing in the name of competition (rather than in the name of safety), the overall quality of piloting will suffer in several ways. Pilots who are stretching themselves to work in two regions at a time will experience dilution of their local knowledge and expertise. Unrestricted competition will result in cherry-picking, with the accompanying loss of coverage in unprofitable outports. Eventually, the best and most experienced pilots will go elsewhere rather than bear the risks of inadequate compensation and uncertain employment security.

The AG's proposal would permit granting licenses for more than one region without any finding by the Board that the state's interest is being served by doing so. In effect, the AG's proposal would eviscerate AS 8.62.080(b) by substituting a scheme allowing pilots to get licensed in more than one region at a time without an independent determination by the Board that the state's best interests compelled it. As noted above, that is no change from prior law.

In order to satisfy the mandate of AS 08.62.080(b), every applicant for a license to pilot in all or part of a second region should be required to demonstrate to the Board that the state's best interests will be served thereby. That determination cannot be made by a blanket licensing scheme, but must be made on a case-by-case basis considering all the circumstances, and must be made solely on the basis of the state's interest in safe piloting, not the economic interests of the individual pilot or industry. The current language of .021(c) provides a yardstick for this determination that is itself grounded in the statute.

The AG's suggestion ignores another issue -- perhaps the central issue -- that has been brought to the Board's attention, but which the Board has so far been unwilling or unable to face head-on. It is the issue of "cherry picking," and it arises in these two related areas: whether pilots can pilot in more than one region at a time, and whether the board

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should recognized pilot organizations that cannot serve all or substantially all of a region.

The problem of "cherry picking" is this: In a region, the revenue from piloting in the high-volume ports essentially subsidizes the low-volume remote ports. For instance, in the Western Region, AMP can only service outports such as Chignik, Lost Harbor, Cold Bay, and the Aleutians at reasonable rates because of the revenues generated by the high volume of traffic in ports like Dutch Harbor. If an individual pilot or a small pilot group is permitted to skim off the cream by working exclusively in Dutch Harbor and offering to do the piloting work there for less, then AMP will inevitably be forced either to abandon the outports and compete head-to-head in Dutch Harbor, or compete head-to-head in Dutch Harbor and raise the rates for the outports to a prohibitive level.

The state's interests are very much at stake in this matter, because if individual pilots or small pilot groups are allowed to "cherry pick" in the name of promoting competition, then larger pilot groups that are trying in good faith to serve an entire region will not be able to continue doing so. Why would any pilot or pilot group continue to serve the unprofitable outports if the only way to survive is to restrict themselves to competing in the high-money ports or trades? Clearly, the state's interests are not served if service to the outports either disappears or becomes prohibitively expensive.

In trying to promote competition, the central flaw in the AG's reasoning is that marine piloting is a free-market enterprise. That is incorrect. Marine piloting, and the state's interest in marine piloting, is more like a public utility or the post office: the public interest demands that piloting, like postal service, be maintained even in remote, low-volume areas where it is not profitable or even self-sustaining. In the interests of safety, the state should be doing everything it can to ensure that regional pilot groups will continue to serve the outports, even though they are not profitable. The state should NOT be doing anything to force pilots to abandon the outports.

The fact is that marine piloting is carefully regulated in the public interest. Unlike lawyers, doctors, hairdressers, and real estate agents, all of whom are also licensed by the state, marine pilots cannot decide unilaterally where they will work, and with whom, and for how much. Instead, the state has decided to restrict them to certain regions of the state, to regulate how much they can charge, and to require that they

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become members of regional pilot organizations that must accept for membership anyone with a pilot's license. The AG's apparent assumption that marine piloting should be treated like a truly "competitive" profession is simply indefensible.

In order for the state's interests to be properly served, the state must ensure that professional pilots organizations that are making a good faith effort to provide full coverage to the entire region are NOT driven out of business. The members of these organizations MUST be permitted to make a reasonable living at least equal to professional pilots in the rest of the country, and they must have reasonable job security. The state's interests in having a solid corp of competent professional marine pilots with sound local knowledge is not furthered by encouraging a system under which remote locations cannot get pilots, good pilots are driven elsewhere for decent pay and job security, and piloting services in the busiest ports go to the lowest bidder in a cutthroat market. It is neither good nor responsible public policy. We aren't talking about cabbages here; we're talking about marine safety. Marine pilots are the equivalents of air traffic controllers, not grocers.

RECOGNITION OF MARINE PILOT ORGANIZATIONS

AMP supports the following policies for recognition of marine pilot organizations and the training and licensing of pilots:

1. In order to receive an unlimited license, a pilot must have full federal and state coverage for the entire region. AMP believes there should be a reasonable time in which to move from partial coverage as a deputy pilot to full coverage as an unlimited pilot, but also believe that a time limit must be established for doing that. In other words, "up or out." This would affect regulation .021(b), which implies that a pilot can elect indefinitely not to get fully licensed in the region. As noted above, AMP urges the Board to go back to the original formulation of .021(b).
2. In order to be recognized as a regional organization, a one-pilot organization must agree to provide pilotage services in the region for at least six months of the year. An organization with two or more members must provide pilotage services for the entire year.

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3. No pilot organization, regardless of its size, may refuse a request for pilot services anywhere in the region, unless there is no competent pilot then available from the organization. In other words, if a competent pilot is available, that pilot must render requested services. "Competent" means physically and mentally competent and licensed for the particular area. An organization's refusal to perform pilotage services when competent to render them should be grounds for terminating the organization's recognition.

These measures are intended to preclude seasonal and geographic cherry-picking, and AMP believes they are reasonable requirements in furthering the statutory objectives of the act.

Respectfully submitted,

ALASKA MARINE PILOTS

cc: Gary Amendola
Office of the Attorney General
State of Alaska
(via fax)

Memo to Alaska Board of Marine Pilots
From Alaska Marine Pilots
Re: Regulations 12 AAC 56.012(b) and (c)
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Confirm.

Marine

Pilots Brd.

Nominees

1992

MAY 1 1992

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 12, 1992

*The Honorable Drue Pearce
Alaska State Senator
State Capitol
Juneau, AK 99801-1182*

Dear Drue,

Thank you for informing me of your support for the appointment of Robert "Tiny" Schasteen and John C. Klepper to the Board of Marine Pilots.

I have forwarded your recommendations to Boards and Commissions for Tuckerman Babcock's follow up. He has recorded your comments, and they will be considered prior to making an appointment.

Your continued involvement and valued comments are deeply appreciated.

With best regards.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

Alyeska pipeline
SERVICE COMPANY

1835 SOUTH BRAGAW STREET, ANCHORAGE, ALASKA 99512, TELEPHONE (507) 278-1611, TELEX 090-25-127

February 5, 1992

File No. 18.03.05

Jeff Pierce
President
Southwest Alaska Pilots Association
Post Office Box 110041
Anchorage, Alaska 99516

Dear Jeff:

With reference to your call requesting nomination to fill the industrial representative vacancy on the Pilots' Board, I have pleasure to present you with three names:

1. Captain Simon Lisiecki
 - Resides at Valdez
 - Nomination supported by BP
 - BP's representative/head of shipping agency Valdez

2. Robert Levine
 - Resides at Anchorage
 - Nomination supported by Arco
 - Arco Marine representative for Alaska

3. Captain John Klepper
 - Resides at Valdez
 - Nomination supported by Alyeska and Exxon
 - Operations Manager SERVS Valdez

If you require further information on any of these gentlemen, please call me.

Sincerely,



M.F.G. Williams
Vice President
Environment & Contingencies

sks
92s471

bcc: Roger Gale
Jerry Asphland
John Klepper
John Tompkins

Personal/Professional History

Robert "Tiny" Schasteen
Box 427
Dutch Harbor, Alaska 99692
Phone (907)581-1827 (work)
FAX (907)581-2039

I arrived in Kodiak, Alaska in 1967 right after high school and lived there until 1971. While there I worked in seafood processing plants at jobs beginning with unloading shrimp and progressing to plant foreman. During these years I also did some commercial fishing as well as Longshoring for Alaska Steamship Co. and Sealand.

In 1971 I joined Local 302-Operating Engineers and worked as an oiler/operator during the construction of the bridge connecting Sitka with Japonski Island.

After the job in Sitka I moved to the Seattle area for approx. 2 years after which I returned to Kodiak as a plant Engineer for Pacific Pearl.

In 1974 I moved to Unalaska and have been here since then with the exception of a year and one half, during which time I was a foreman at a seafood reprocessing plant in Monroe, Washington. In the almost 17 years I have lived in Unalaska I have Engineered at a seafood processing plant advancing to the position of Plant Superintendent; fished commercially; been Superintendent on a processing vessel; scheduled and coordinated services and berthing for foreign freighters; held one term as City Councilman; formed a citizens group called the Citizens Study Group to address problems with the Judicial system in Unalaska; and I am a charter member of the Board of Directors for the Unalaska Chamber of Commerce.

Currently I am: Vice President-Dutch Harbor Operations, for Offshore Systems Inc., Vice Chairman Unalaska Ports and Harbors Commission, Member of Ballyhoo Lions, Member Unalaska Chamber of Commerce, and very active in working with Alaska Department of Environmental Conservation and the Coast Guard in addressing the problems relating to marine pollution in our area.

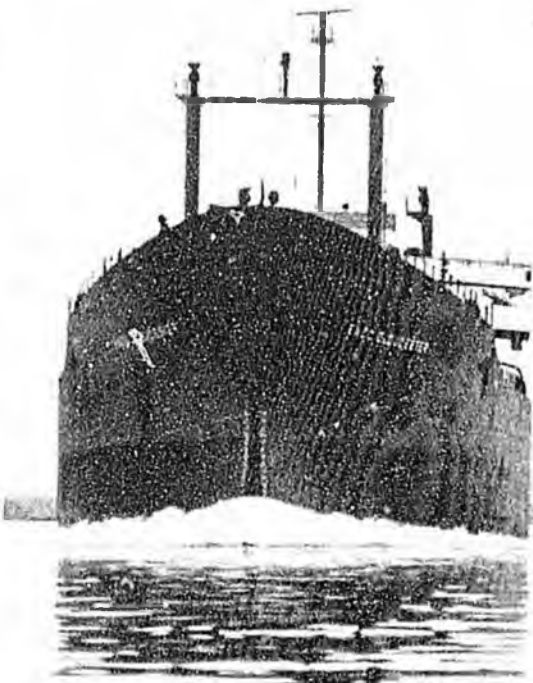
Improv. AK's

Marine

Pilot

System

Improving Alaska's Marine Pilotage System



Office of the Governor
Division of Policy
November 1990



IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM

(Final Report)

By
Marilou Madden
and
Brad Pierce

November, 1990

Office of the Governor
Division of Policy
P.O. Box AD, Juneau, Alaska 99811

Improving Alaska's Marine Pilotage System

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EXECUTIVE SUMMARY

In response to concerns about public and environmental safety in the maritime trade, Governor Cowper directed his Office of Management and Budget, Division of Policy, to conduct a study of Alaska's marine pilotage system and to make specific recommendations to strengthen the State Marine Pilotage Act.

1. FINDINGS

• *Pilotage serves an important public function.*

Government has the authority to protect life, property and the environment by insisting that ships operating in coastal waters carry pilots familiar with local conditions.

The current system in the United States splits responsibility for pilotage between the federal government and the maritime states. The federal government exercises control over vessels engaged in domestic trade. Individual states have the authority to require compulsory pilotage for foreign ships and for United States flag ships on foreign voyages operating within the waters of the state.

• *Alaska's current pilotage statute has significant flaws.*

Although the current Marine Pilotage Act has several features in common with other maritime states' legislation, there are weaknesses and gaps in current statute.

Alaska's statute, unique among the maritime states, treats licensing as an individual right rather than as a franchise to perform a public service. This emphasis on rights has embroiled the Board of Marine Pilots in controversies with individual pilots, diverting time and attention away from larger issues facing state pilotage.

Alaska's marine pilot statute is similar to its statutes governing other boards and commissions. The statute sets out only basic duties and responsibilities and was intended to delegate broad regulatory powers to the Marine Pilot Board. In recent years, various Assistant Attorney Generals and others have questioned the existing Act, maintaining that current language does not give the Board specific authority to set rates and establish regional licensing requirements. As a result, the Board has not reviewed the pilotage rate schedule for several years.

More important, weak authority to set specific licensing standards has resulted in the charge that Alaska's marine pilot standards are the lowest among the maritime states.

The Act fails to mention several areas of growing concern. In particular, it does not address pilot liability or the role of pilot associations. These are areas of increasing contention in Alaska.

- *Changing conditions in Alaska's maritime trade have caused tensions and strains within the pilotage profession.*

For the first 10 years after the passage of the State Pilotage Act in 1970, the marine pilotage system in Alaska virtually ran itself. Pilots voluntarily organized themselves into two associations to serve the Southeast and Southwestern regions of Alaska. The associations were responsible for hiring, training, and dispatching pilots and collecting fees from shippers. Occasional discipline problems with individual pilots were handled internally.

During the past 10 years, the marine pilotage system in Alaska has experienced considerable growing pains as shipping traffic in state waters has increased, particularly in the Southeastern and Aleutians regions. This growth has resulted in new tensions and opportunities

Challenged by pilots new to the system, traditional association control over pilot training and discipline has been eroded by legal actions and fears of potential liability.

Increased demand for pilotage services has created niches for new groups and configurations of pilots. During the past three years, splinter groups of pilots have broken off from the original Southeast (SEAPA) and Southwest (SWAPA) associations to offer competing pilotage services.

The Alaska Marine Pilot Act—originally designed to give the Board the flexibility to respond to new conditions—has not provided the Board the clear authority it needs to deal with the current situation.

2. CONCLUSIONS

The state has a compelling interest in maintaining a system of compulsory pilotage for state waters. To secure this interest, the report proposes an explicit social contract between Alaska's marine pilots and state government.

In return for limiting pilot liability and protecting pilot organizations from antitrust litigation, the state should require increased professional standards for all pilots and heightened accountability on the part of pilot organizations.

3. RECOMMENDATIONS

Specific recommendations for strengthening the State Pilotage Act and improving pilotage regulation in the state are summarized below:

- The Marine Pilotage Act should be amended to include an opening **statement of intent**, which establishes the fact that marine pilots are employed under state supervision for the purpose of protecting lives, property, vessels, and the marine environment.

- The Board of Marine Pilots should be given clear and unambiguous authority in statute to promulgate and enforce more **extensive entry-level requirements** for state pilots.
- The Board should establish an **additional pilotage region** in the Aleutian Chain/Western Alaska region.
- The Board should move towards **exclusive licensing** by region.
- The Board should establish increased **standards for progressive licensing**, including a formalized deputy pilot program. The Board should develop training criteria that provide all deputy pilots equal opportunity to perform the ship movements necessary to upgrade their licenses.
- The Board should establish a **check-ride system for fully-licensed pilots**, conducted by senior pilots designated from each region by the Board.
- **Recency criteria** should be adopted for pilots to maintain endorsements for specific waters and ports.
- The Board should be authorized to conduct **random substance abuse testing**.
- Every pilot should be required to submit to a **complete annual physical exam**.
- The Board should develop an approved list of **continuing education** options and require that pilots complete a course between license renewals.
- The Division of Occupational Licensing should be authorized to hire a **full-time marine pilot coordinator** to investigate marine accidents, review training programs and participate in license examinations.
- **All complaints concerning pilotage service** should be directed to the State Board through the Marine Coordinator—not to pilot organizations.
- The state should pursue the possibility of establishing an **accord with the U.S. Coast Guard** to share information about accidents/incidents, conduct joint investigations and to coordinate mutual requirements.
- The state **should not place a specific limit** at this time on the number of pilot licenses issued.
- In order to trace the future effects of increased entry-level and training requirements on the supply of pilots, the Board should **compile the information on ship movements**, currently filed with the Division of Occupational Licensing, into a form which is usable for management purposes.
- Over a period of time, if the Board determines from its management reports that there is a **shortage or an overage of pilots** relative to the demands of shipping, it should take the steps necessary to relieve the situation. Such steps may include requesting legislative authority to limit the number of licenses
- The Board should have authority to consider accident investigation and other state

administrative costs in setting pilotage rates.

- Board meetings should be scheduled at least **three times per year**, with provision for emergency meetings at the request of the chair.
- The Board of Marine Pilots should be enlarged to include **pilot, ship agent and public representation from the Aleutian Region** of the state.
- **Pilot organizations should be recognized** in state law and chartered to provide state-approved training for deputy pilots.
- In return for limiting liability and providing protection from antitrust litigation, pilot organizations should have their **bylaws and operating rules approved by the Board**.
- The Board should be authorized in statute to establish an **enforceable tariff schedule**.
- In order to assure that all pilots and pilot organizations honor the Board-established pilotage rates, pilot organizations and individual businesses should be required by law either to **submit copies of their annual audits to the State Board** or, in the case of individual contract pilots, to keep their books open for state audit.
- Individual **pilot liability should be limited** in statute to a specific dollar amount.
- **Pilot license fees should be reviewed** by the Board and **increased substantially** to reflect the increased costs of program administration.
- The tariff schedule should be reviewed by the Board and adjusted where necessary. The Board should consider **special rates for unique circumstances**.
- The Board should have the authority to include a **training fee in the tariff schedule** to provide partial support for training and continuing education programs.

IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM

1. INTRODUCTION

A. STUDY BACKGROUND

In a January 1, 1990 letter to Governor Steve Cowper, Captain W.E. Murphy, a veteran Southwest Alaska marine pilot and former chairman of the State Board of Marine Pilots, expressed serious concerns about pilot training and performance standards in the state.¹ The main concerns expressed in his letter were that:

- Entry requirements into the marine pilotage profession in Alaska are too low and continuing education requirements are nonexistent.
- Local standards are failing to protect and maintain a high level of pilot competency.
- Alaska's practice of issuing an unlimited number of marine pilot licenses fosters competition among pilots, which allows steamship companies to exercise control over ship movements in compulsory pilotage waters and compromises safety.
- Under the current State Pilotage Act, the Board of Marine Pilots has great difficulty in developing regulations to improve standards and maintain a meaningful system of pilot discipline.

In response to Captain Murphy's letter, the Governor directed his Office of Management and Budget, Division of Policy, to conduct a study of Alaska's marine pilotage system and to make specific recommendations to strengthen the State Marine Pilotage Act and improve pilotage regulations. Under the provisions of Alaska's sunset law, legislation authorizing the Board of Marine Pilots is due to expire on June 30, 1991. The issues raised and discussed in this report are intended to provide focus to the executive and legislative review of the state's pilotage system.

B. METHODOLOGY

The first steps in the study methodology involved a review of marine pilotage literature and an analysis of pilotage statutes for the maritime states. Paul Kirchner, General Counsel to the American Pilots' Association, provided an extensive written opinion on the comparability of Alaska's standards to those in other states.² The bulk of information on the present status of marine pilotage in Alaska came from numerous discussions with individual pilots as well as responses to a written survey of all 94 licensed marine pilots. Meetings were held with representatives of the various pilot associations, Department of Law, Department of Commerce and Economic Development (Division of Occupational Licensing staff), and the U.S. Coast Guard. Members of the Board of Marine Pilots were interviewed by phone as were licensed ships' agents from all of the shipping service companies operating in the state.

Attorneys representing the various pilot associations in the state, ships' agents, ship insurers, and the Department of Law met with Division of Policy staff and the President of the American Pilots' Association, Captain Pat Neely, in Juneau in late September to draft a new State Pilotage Act.

Copies of the draft report and legislation were released to the Board of Marine Pilots, staff from relevant state agencies, pilot groups, and other interested parties in October for review. Comments received as a result of the review process are appended to this report³. The study authors presented the report and comments from reviewers to the Board of Marine Pilots at its November meeting in Anchorage.

Legislation to amend the existing State Pilotage Act is expected to be introduced during the First Session of the Seventeenth Legislature, which begins January 20, 1991.

C. STUDY OUTLINE

Section 2 of the study presents a historical review of state pilotage to provide a background for the issues raised in the report. The existing Alaska legal framework is then discussed and compared with marine pilotage law in other states in Section 3. Section 4 outlines the status of Alaska marine pilotage in general and in the various regions of the state. The following two sections detail information and opinions on the issues raised in Captain Murphy's letter which were solicited from pilots and ships' agents. Section 7 contains the study's conclusions and recommendations for state action.

2. HISTORICAL BACKGROUND

Alaska's marine pilotage system must be considered within a larger framework of maritime law and tradition. Maritime communities throughout the world have long recognized the dangers of unregulated traffic in local waterways. Provisions for mandatory piloting—that is, the requirement that ships have or take on board persons familiar with local conditions when transversing local waters—date from Roman law. The Florida statute on piloting clearly states the rationale for such provisions:

The Legislature recognizes that the waters, harbors and ports of the state are important resources, and it is deemed necessary in the interests of public health, safety and welfare to provide laws regulating the piloting of vessels utilizing the navigable waters of the state.⁴

Concern about unregulated pilotage for local waters first surfaced in this country in colonial times. According to an authoritative history of American marine pilotage published by the American Pilot's Association:

the early pilotage records of the the colonies cover only sketchy accounts of the beginnings of the profession in America, and much has been lost or destroyed. Such

scant records as exist seem to indicate a pattern of pilotage development progressing through stages of pure individual initiative, to periods of severe competitive practices resulting in a struggle for predominance and eventually government regulation.⁵

Colonies gradually gained control over pilotage to the extent that, as an early U.S. Supreme Court decision commented:

When the government of the union was brought into existence it found a system for the regulation of its pilots in full force in every state.⁶

This state system was left virtually intact by a 1789 provision in federal statutes:

Until further provision is made by Congress, all pilots in the bays, inlets, rivers, harbors, and ports of the United States shall continue to be regulated in conformity with the existing laws of states, respectively, wherein such pilots may be, or with such laws as the states may respectively enact for the purpose.⁷

States continued to exercise sole authority over piloting until 1871 when Congress enacted provisions that significantly reduced the scope of state control by requiring that:

...every coastwise sea-going steam-vessel subject to the navigation laws of the United States, and to the rules and regulations aforesaid, not sailing under register, shall, when underway, except on the high seas, be under the control of pilots licensed by the inspectors of steamboats.⁸

This act effectively established a dual piloting system in the United States: the historical state system and a new federal system. Generally speaking, vessels engaged in foreign trade (vessels sailing under register⁹ and foreign-flagged vessels) are under the authority of the states while American vessels engaged in domestic trade are under federal authority. One exception to this general division of responsibility is Great Lakes traffic, which is under the exclusive regulatory control of the federal government through the Coast Guard. The exemption from state law of Great Lakes vessels was made pursuant to an international treaty with Canada which provides for piloting by persons having either U.S. Coast Guard or Canadian licensure.

The dual system of piloting has resulted in a dual system of pilots: federal pilots, often employees of the ship; and state pilots, who generally act as independent agents or as officials of the state which licenses them. In Alaska, shipping companies may meet compulsory pilotage regulations either by obtaining the services of an independent pilot or by employing a state-licensed pilot to service company ships exclusively. According to the American Pilots' Association (APA), Alaska is one of the few maritime states in which a state pilot need not be independent of a vessel or its owner.¹⁰

Summary: The public service nature of local pilotage has been long recognized. By tradition and statute, government has the authority to protect life, property and the environment by insisting that ships operating in coastal waters carry pilots familiar with local conditions. The current system in the United States splits responsibilities for pilotage between the federal government and the maritime states. While the federal government exercises control over vessels engaged in domestic trade, the individual states appear to have unlimited authority to impose pilotage standards and to require compulsory pilotage for foreign ships and ships sailing under register within the waters of the state.

3. COMPARISON OF ALASKA STATUTES WITH THOSE OF OTHER STATES

During the course of U.S. history, a very large body of state law has developed around the marine pilotage profession.¹¹ In several of the older states, marine pilotage practices, laws, regulations, and traditions have more than 200 years of development and refinement behind them. Currently, all 24 maritime states have established mechanisms for controlling the licensing of pilots, setting rates, and providing general oversight of the state pilotage system.

Many states have recently amended their pilotage laws, partly because of statutory sunset provisions, but also in response to increasing litigation and a heightened awareness of the importance of state pilotage brought about by the *Exxon Valdez* disaster.

The Alaska State Pilotage Act (AS 08.62) was first enacted in 1970 and has been amended only slightly over the past 20 years. The original bill exempted all "vessels and tow boats of United States registry...engaged exclusively on the rivers of Alaska or in the coastwise trade on the west coast of the United States"¹² from compulsory state pilotage. This section was amended in 1972 to exclude only those vessels of less than 300 gross tons. The 1973 legislature amended the act to give the Marine Pilot Board the authority to reexamine persons whose license had lapsed for less than two years if "the Board has reason to believe that the person applying for reinstatement of a license is incapable or incompetent to carry out the duties of a licensed marine pilot."¹³ Section 08.62.185 of the Act was added in 1977, requiring that:

any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater, when navigating in state waters beyond Alaska pilot stations either (1) employ a pilot licensed by the state under this chapter; or (2) utilize a federally licensed pilot whose duty station has been on that tanker throughout that specific voyage.¹⁴

Several other amendments dealt with the Marine Pilot Board. A public member was added in 1976 legislation while board members were limited to two consecutive terms in 1980. The Board was added to Alaska's sunset statute in 1985 and was extended to June 30, 1991 under this statute during the 1987 legislative session.

Compared with other states, Alaska's Marine Pilotage statute appears quite sparse. It contains only three articles—addressing the Board of Marine Pilots, Licensing and General Provisions—and delegates broad rule-making responsibility to the Board. Such a practice is common in Alaska, where statutory language is often limited in favor of regulatory authority, which is presumed to provide more flexibility as conditions change. Thus, items which other states place in statute are left to the discretion of the Board. Alaska's statutory and regulatory scheme differs from many states in one other significant respect. Pilotage in many maritime states centers around particular ports and, as described below, some states have elected to regulate pilotage through local port commissions. Even where pilotage is under the supervision of statewide boards, licenses are generally given for specific ports. Pilot services are generally organized through separate associations serving particular ports. In Alaska, geology and shipping patterns dictate regional rather than port licensing. This, in turn, has led to regional associations, which seek to provide pilotage services over a large geographic area. This feature of Alaskan pilotage, which is unique among the maritime states, suggests that wholesale adoption of regulatory practices of other states may not always be appropriate. However, common features of state pilotage need to be addressed in statute either directly or by explicitly delegating regulatory authority to the Board. These common features of the states' pilotage systems are discussed below.

A. SYSTEM OF REGULATION

Twenty-one states, including Alaska, have established pilot boards charged with promulgating and enforcing pilotage regulations. Only three states—Connecticut, New Hampshire and Hawaii—regulate directly without going through a board.

Boards are of two general types: a statewide board, having authority over all compulsory pilotage waters in the state and local port boards or commissions whose authority is limited to a specific area. Alaska's Board of Marine Pilots is statewide in scope. In general, boards having statewide authority are relatively recent, local boards having been the common practice historically. Unique among the states, California's state board (which is actually the oldest pilot board in the country) oversees only the San Francisco Bay area, leaving other state ports to local control.

Pilot boards may be housed in a state agency or created independent of agency oversight. Nine states, including Alaska, place their boards in an executive department, most commonly in the agency having responsibility for professional licensing. Alaska's Marine Pilot Board is housed in the Division of Occupational Licensing, Department of Commerce and Economic Development. All such boards exercise statewide authority. Twelve states have established boards outside of any state agency. Of the states with independent boards, seven have boards established for each local port.

Most statewide boards are comprised of representatives of the pilot profession, the marine industry, and the general public. Alaska's board:

consists of two pilots licensed under [Chapter 62, Alaska Statutes] who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members...and the commissioner [of the Department of Commerce and Economic Development] or the commissioner's designee.¹⁵

In those states where local port commissions are used in lieu of a state-wide board, membership patterns are less standard, but the majority of members are specified to be "seafaring men" or persons skilled and experienced in maritime affairs.

B. LICENSING

Because the essence of state piloting is knowledge of local waters and conditions, all states require training for person's wishing to become licensed. States have, in general, established two routes for qualifying for a state pilot license: apprenticeship or deputy pilot programs. In states opting for apprenticeship, local pilot associations usually select and train the apprentices according to association criteria. After the applicant has completed the apprenticeship to the satisfaction of association members, they present him/her to the state for examination. Entry into an apprenticeship program often requires little or no previous experience and the duration of the training is fairly long. In states with deputy pilot programs, the deputy pilot meets entry-level requirements established by the state and performs limited duties under an entry-level license. The deputy pilot progresses to higher levels of licensing by meeting experience standards which are set and examined by the board or state licensing official. Training periods for deputy pilots are generally considerably shorter than for apprenticeship pilots, based on the more extensive prior experience required of deputy pilots. Alaska's system follows the deputy pilot form, although that term is not used in the statute.

State pilot licenses can be considered both a certificate of competency and a franchise to perform a public service, requiring the licensee to:

assume public obligations in maintaining pilot stations and operating a pilotage system...[the state pilot] sees his duty and obligation as being owed to local political authority and the public, rather than to the shipowner.¹⁶

Some states have recognized this public purpose function by "appointing" as well as licensing the pilot. Virginia statute requires that:

If the Board finds the applicant qualified to act as a branch pilot it shall issue him a license, and he shall thereupon become a state officer, to be known as a branch pilot and shall hold the office for one year next ensuing.¹⁷

Alaska is unique in its treatment of licensing as an individual right rather than a franchise. Alaska's statute states that "a person is *entitled* (emphasis added) to a

license"¹⁸ if s/he meets the criteria outlined. In virtually all other states, the license is granted at the discretion of the Board or other licensing authority. Commonly-used language in other states allows the Board (or other licensing authority) "to choose and appoint" pilots or to "grant commissions"¹⁹ to act as pilots. As will be discussed at greater length elsewhere, the Alaskan emphasis on right rather than franchise is, in the opinion of the study staff, a primary cause of current tensions in the state's regulatory scheme.

Pilot licenses must be renewed at periodic intervals, ranging from one to five years. Alaska requires biennial renewal. No state at present requires continuing education or training as a condition for renewal, although the State of Washington has recently amended its pilot statute by requiring that:

The Board shall establish additional training requirements, including a program of continuing education, developed after consultation with pilot organizations.²⁰

Some states do require a physical examination prior to renewal or reissuance of a license. If a pilot has allowed a license to lapse, most states, including Alaska, require either re-examination or certification that the pilot has completed a certain number of familiarization trips in the waters for which a license is requested.

Thirteen state statutes either specify the number of pilots to be licensed or clearly delegate to the pilot board(s) the responsibility for setting the number of state licensed pilots. Two other states have statutory language which implies that the board(s) may limit the number of licenses issued. In effect, however, in those states without statutory provision for limiting the number of pilots but with mandated apprenticeship programs, the number of licenses is limited *de facto* since pilot associations must recommend an apprentice for licensing. Alaska appears to be the only state without either a statutory limitation or a limitation through apprenticeship provisions. Thus, a recent Florida pilot study concludes that "Only Alaska issues licenses to anyone who qualifies and passes the examination."²¹

C. PILOT DISCIPLINE

All maritime states have instituted procedures for disciplining pilots. Where statewide boards or local commissions are used, this power generally has been delegated to such bodies. All states allow for suspension or revocation of a pilot's license for cause, generally incompetence, repeated negligence, or habitual substance abuse. A long-standing problem in pilot discipline has resulted from the dual pilotage system referenced above. Almost all states, including Alaska, require that a pilot hold an appropriate federal pilot license as a condition of state licensing. Thus, most state pilots hold both a state and federal license and may operate under either license, depending on the type of vessel being piloted. Since each license is issued under a different authority, this situation results in several anomalies. First, where a federal license is a precondition of state licensing, "when a state sees fit to discipline a pilot,

perhaps even revoking his/her license, the federal license is untouched and remains valid."²²

Thus, a person found negligent or incompetent may still be allowed to operate in local waters on vessels subject to Coast Guard rather than state regulation even after the state has taken action against the individual.

Second, in those few states where a federal license is not required for state licensure, a pilot may still hold both. If disciplinary action is taken against an individual when operating under his/her federal license, the state cannot revoke its license even though the pilot has been proved incompetent. The Pilotage Study Group commissioned by the U.S. Coast Guard has recommended federal legislation to address the first problem. Individual states are moving to correct the second by giving state licensing authorities the power to act against a person who has been found incompetent by a federal authority.

In addition to the ultimate penalty of revocation, some state statutes institute a graduated system of penalties, beginning with reprimand or a fine. Washington State has recently amended its marine pilot act to grant the Board the ability to prescribe "disciplinary or corrective action, including training and treatment, that will be taken."²³ Alaska's statute in this respect would appear to be a model. The Board has an impressive array of discipline options, including peer review and imposing "professional education requirements until a satisfactory degree of skill has been attained in those aspects of professional practice determined by the board to need improvement."²⁴

Pilots' due process rights are recognized in all state statutes by requiring a formal hearing before a license is revoked. Several states, however, including Alaska, allow the board or other licensing authority to summarily suspend a license for a specified period or before a formal hearing in cases of clear danger to public health or safety. A few state statutes spell out specific timelines for holding hearings and rendering decisions concerning the discipline of a pilot.

D. PILOTAGE RATES

Of the states with pilot boards, fourteen charge the board with setting pilotage rates. Four states set rates by statute. Rates in the six remaining states are set by various persons or bodies. Alaska's statute is rather cumbersome in this regard. It gives the board the authority to "adopt regulations under the Administrative Procedures Act...establishing standards by which pilotage fees may be established."²⁵

E. PILOT LIABILITY

Until recently, it was rare for pilots to be sued and have damages assessed against them for two reasons. First, given the comparatively large amount of damages claimed in most marine accidents, assessing damages against the limited resources of a state pilot was not considered worth the expense of litigation. Second, under traditional

maritime law, a vessel (vessel owner) is liable for the negligence of a pilot. Therefore, it is not in the interests of vessel owners to obtain a finding of negligence on the part of a pilot. This traditional liability situation, however, is changing. Pilots are being sued with increasing frequency.

If pilots are held to be personally liable, the effect on the industry would be crippling. No pilot can obtain insurance against losses which could potentially amount to millions of dollars. Also, since ships are already insured against damages, requiring a pilot to carry similar insurance would merely increase transportation costs.

To address these problems, several states have moved to limit pilot liability in statute. California statute clearly states that "when a pilot goes aboard a vessel, the pilot becomes a servant of the vessel and its owner and operator."²⁶ South Carolina and Washington limit liability to \$5,000 in statute. Oregon has addressed the problem in a more complicated manner: it allows for pilots to purchase insurance on a 'trip' basis:

in an amount equal to the value of the vessel and its cargo, or such other amount as may be agreed upon between pilots and the vessel, its master, owners, agents or operators, insuring the pilots and the organization of pilots to which they belong against all claims or demands, arising from or based upon, directly or indirectly, pilotage of the vessel. The premium for such insurance shall be assessed in addition to the rates and charges specified [in statute].²⁷

Alaska statute does not speak to pilot liability.

F. PILOT ASSOCIATIONS

Pilot associations are the traditional way in which pilots organize themselves to fulfill their duties. Pilots must be on call at all times to handle traffic into and out of pilotage waters. They must meet ships at pilot stations to offer services. They must be prepared to handle all types of ships in all conditions. Individually, pilots cannot offer the range and scope of services required. Therefore, associations of pilots have formed since the early years of compulsory pilotage in this country. Pilot associations offer centralized dispatch and clearance services. They either own or make arrangements for pilot boats to carry pilots to and from ships. Through their members, they can offer 24 hour per day, year-round services. Together, the members provide the skills necessary to deal with all types of situations.

Associations also have traditionally taken the responsibility for training new pilots and for evaluating existing pilots. Both activities serve important functions in maintaining and upgrading pilot skills.

States have long recognized that pilotage lends itself to association among pilots, which is the reason behind state control over pilotage rates. However, few states have recognized associations formally. Without some form of state recognition, the

traditional association has been challenged on antitrust grounds. Some states have sought to protect associations from such challenges. Florida, Hawaii, Louisiana, and North Carolina all explicitly recognize pilot associations.

Although pilot associations are recognized as improving the efficiency of the compulsory pilotage system, they have been accused of abusing their power by limiting entry into the profession in an arbitrary and capricious manner. Hawaii went through a particularly troubling experience with pilot associations and recently amended its pilotage law to state:

Pilots licensed under this chapter, each of whom shall be deemed an individual contractor, may form a nonprofit association which shall not be deemed a partnership or corporation for liability purposes, in order to provide such arrangements and facilities as may be necessary and desirable for the efficient dispatching of vessels and rendering of pilotage services required under this chapter. The association shall have no control over the selection of persons to be licensed as pilots or their discharge. The association shall have no direction over the manner in which an individual pilot performs the pilot's duties.²⁸

Alaska statute does not recognize pilot associations, although associations do operate in two of the three regions of the state, as described in Section 4.

Table 1 (pages 10a-10f) outlines the provisions of each state's pilotage statute in some detail.

Summary: Although Alaska's statute on marine pilotage is considerably shorter than most other maritime states, it does address many common concerns. It has, for example, placed state pilotage under the direction of a statewide board, composed of both industry and public membership—a practice common to most states. Alaska's statute speaks to licensing and discipline of pilots, two major issues in professional certification and control. With respect to discipline, Alaska's statute is among the most comprehensive in the country, giving the Board a wide range of options not only to discipline but to improve the performance of pilots who have experienced difficulties.

There are, however, weaknesses and gaps in current statute. As mentioned above, Alaska law is written from the perspective of individual rights rather than public franchise. This emphasis is unique among the maritime states. Another potential weakness is that the Alaska Marine Pilotage Statute sets out only basic duties and responsibilities but delegates broad regulatory powers to the Board of Marine Pilots. In recent years, the Attorney General and others have questioned the existing Act, maintaining that current language does not give the Board authority to set rates and establish specific licensing requirements. As a result, the Board has not reviewed the pilotage rate schedule for several years. More important, weak authority to set specific licensing standards has resulted in the charge that Alaska's marine pilot standards are the lowest among the maritime states.

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
Alabama	State; State Pilotage Commission. Three members: official of steamship company, active bar pilot, professional or businessman licensed by state.	yes; "at no time shall there exist more pilots than are reasonably necessary to meet the demands or requirements of commerce." Number of pilots left to discretion of Commission (§33-4.30)	first class federal license; examined and certified to be competent; written exam, graded by three "fair, impartial and competent nautical men." (§33-4-35)	Apprenticeship—one year; apprentices must be selected and approved by state commission.	not mentioned	yes
Alaska	State; Board of Marine Pilots. Seven members: 2 pilots, 2 industry, 2 general public, 1 commissioner of commerce or designee.	no	pass examination required by board; qualify under regulations adopted by board	no	not mentioned	no
California	State; Board of Pilot Commissioners. Seven members: 2 pilots, 2 industry reps, 3 public	yes; "The board shall appoint and license the number of pilots which is sufficient to carry out the purposes of this division." Number determined by board. (§1170.1)	Board adopted licensing standards which "shall be equal to, or exceed, standards for obtaining federal endorsements and which shall conform with and support state policy." (§1171.5)	board to adopt training standards and training program; after program adopted, shall not issue license to anyone not completing program. Training conducted and supervised by a pilot evaluation committee of five active pilots each having at least ten year's experience in local waters. Training program to be funded by fees received under statute.	one year	no
Connecticut	State; Commissioner of Transportation licenses	uncertain; "commissioner shall license as many residents of this state and any other state as said commissioner deems necessary and finds qualified to act as pilots." (§15-13)	federal license; twelve round trips as pilot of record or 24 round trips as observer	no; refresher passages must be made before inactive license can be renewed.	one year	no

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
Delaware	State; Board of Pilot Commissioners; 5 members—3 pilots, 1 industry, 1 public	yes; statutory limitation (42 first class, 10 total for second, third and fourth class)	must serve apprenticeship; examined by at least three members of Board	4-year apprenticeship; number of apprentices employed at any one time under control and within discretion of Board.	one year	no
Florida	State; Board of Pilot Commissioners; ten members: 5 pilots, 2 industry, 3 general citizens	yes; "the board shall determine the number of pilots based on the supply and demand for piloting services and the public interest in maintaining efficient and safe piloting services." §310.061 Board determines number for each port. When vacancies occur in the number of required pilots, examinees are appointed on the basis of highest score on written exam.	state pilot must serve two years as deputy pilot; deputy pilot must have had maritime experience satisfactory to the board (detailed in statute); federal first-class unlimited license; written examination for both pilots and deputy pilots. Pilots licensed or certified for and appointed to specific ports (State pilots are "licensed;" deputy pilots are "certified")	licensed pilots in each port "shall submit to the Board for its approval a deputy pilot training program of not less than 2-years duration." §310.075 Training program includes progressive increases in size and tonnage of boats handled and comments of the pilot in charge on each training journey.	hold licenses "so long as they possess the qualifications set out in [the] chapter and remain in active service in the ports for which they are appointed." §310.081	no
Georgia	local ports	yes; statutory limits at each port	determined by local port commissioners	no	not mentioned	no
Hawaii	State; director of the department of commerce and consumer affairs licenses	no	standards developed by director	no	all licenses expire on June 30 of even numbered years	no
Louisiana	local ports (Governor actually appoints pilots but on recommendation of local Board of Examiners)	unclear: "Whenever there exists a necessity for more...pilots, the board of examiners shall hold examinations for all applicants who have registered with them." (R.S. 34-945)	examination developed by local Board of Examiners; "steamship pilots" must have federal first class license	must have completed an approved apprenticeship program	not mentioned	must be voter of the state

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
Maine	State; Maine State Pilotage Commission. 5 members: 3 pilots, 1 industry, 1 general public with marine background	yes, Commission shall "select only such number of pilots as would be necessary to permit adequate pilotage in these waters." §38.90 (H)	statute cites only federal first class endorsement; however, commission has authority to "establish and determine the qualifications of any person applying for a pilot's license and conduct examinations." §8.90 (C)	no	5 years	yes
Maryland	State; Board of Pilots. 9 members—1 department head, 1 president of pilots' association, 3 pilots, 2 industry, 2 consumers	yes, indirectly by controlling number of apprentices; "from the list of qualified applicants, the Board may choose and appoint the number of apprentice pilots that the board considers necessary to protect the commercial interests of the State." §11.305	apprenticeship to get limited license; have limited license and provide pilotage for 3 years for other licenses.	apprenticeship	2 years	no
Massachusetts	local harbor districts	no	determined by local district commissioners	no	not mentioned	no
Mississippi	local port commissions	yes; "duty of the commissioners to appoint... a sufficient number of pilots...necessary for the protection of the harbor and the advancement of public shipping" §59-1-7	qualifications passed on by port commissioners	no	appointed for 4 years	no
New Jersey	State; Commissioners of Pilotage; six members "selected from among such persons as have been officers in our naval, revenue or merchant service, or such as have been commanders of vessel engaged in our coasting trade." (§12:8-1)	not mentioned. Vessels sailing from any US port bound in or over bar of Sandy Hook must request a pilot in writing from commission; commission assigns pilots in rotation. (§12:8-8)	examination by commissioners in presence of one or more branch pilots of the state; qualifications and local knowledge	Deputy pilot: 4-year apprenticeship; examination by commissioners. Full branch pilot: 2 years of deputy pilot and examination by commissioners	not mentioned	no

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
New York	City of New York; Board of Commissioners of Pilots; six members, 3 elected by members of NY State Chamber of Commerce and Industry, 2 elected by presidents and vice presidents of Maine insurance companies, 1 from among members or staff of the Albany port district commission	yes; commissioners "shall license for such terms as they may think proper, as many pilots as they deem necessary to pilot ships to and from the port of New York." (Art 6, Sec 90.) same provision for Hudson River and Long Island Sound pilots.	examination "in presence of one or more pilots licensed for the waters regarding which such applicant seeks to be examined." Shall be examined in particular on local knowledge. (Art 6, Sec 92),	Sandy Hook pilots must complete 4-year apprenticeship; "United New York Sandy Hook Benevolent Assoc...shall have sole control over all apprentices and be changed with the responsibility to instruct such apprentices in their duties...no other apprenticeship will be accepted by the commissioners." (Art 6 Sec 90)	not mentioned	"a license shall be denied any to any person holding any license or authority from or under the authority of the laws of any other state." Art. 6, Sec, 90)
North Carolina	local commissions	yes; commissioners shall govern the number of pilots necessary to maintain an efficient pilotage service, but at no time shall the number of active pilots exceed a statutory limit for each port (exclusive of docking masters). Refers to holders of full licenses. Limited licenses may be issued in excess of statutory number.	may examine such persons as hold a federal pilot's license. Exam includes but not limited to personal interview before commission, contact of personal references and physical exam by licensed physician.	Commission may appoint apprentices when deemed necessary for the best interests of the state. Apprentices serve for a minimum of one year but no longer than 3 years in order to be eligible for limited license. "Commission shall adopt rules and regulations to monitor the progress of apprentices on a regular basis to assure the progressive development of knowledge and skill necessary." (§76A-7)	one year	no
Oregon	State; Oregon Board of Maritime Pilots; nine members: 3 general public, 3 pilots (representing different pilotage areas), 3 from industry.	yes; Board to "regulate and limit the number of pilots to be licensed...to the number found by the board to be required to render efficient and competent pilotage service." (§766.115)	satisfactory performance on written examinations prescribed by board together with practical knowledge; river pilots must have 6 months continuous service piloting ocean-going vessels over subject waters.	no	one year	no

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
Pennsylvania	State; Board of Commissioners of Navigation	yes; "no person shall receive a license as a first class pilot till the number of first class pilots be reduced to less than 42, and that the whole number of first class pilots shall not exceed 42." (55 P.S. §41)	examination by not less than three pilots of the first class called by the Board	4-year apprenticeship for fourth class license. Must have fourth class license to obtain other classes; apprentices must make at least 48 trips per year up or down the Delaware	one year	no
Rhode Island	State; State Pilotage Commission; 4 members, 1 licensed pilot, 2 state administrators	no	posses master's license of unlimited tonnage issued by US authority, first class federal endorsement for appropriate section of state waters, state pilot's license for waters of Block Island Sound, complete training in duties as pilot "over the route under supervision of the board of state licensed pilots appointed by the commission for this purpose." (§46-9-7)	see prior for training requirement for original license. Commission has authority to "appoint a special board of state licensed pilots to supervise the training and instructions of those persons seeking eligibility to apply for a pilot's license." (§46-9-7)	5 years	no
South Carolina	local port commissions	yes; number of pilots for each port limited by statute	examined by local board of examiners to consist of "three nautical men," one of whom is licensed for the port in question. Satisfactory completion of apprenticeship and recommendation by a majority of pilots licensed to the port; oral and written examination of general and local knowledge.	3-year apprenticeship; apprentices must be a graduate of an accredited 4-year college or hold an unlimited Third Mate's License.	not mentioned	no
Texas		yes; governor shall not appoint more than 4 or less than 2 for Matagorda;	be at least 25 and a U.S. citizen; have a federal pilot license for area in which	apprenticeship under supervision of one of the independent pilots' associations	not mentioned	no

TABLE 1: State Statutory Provisions Regulating Piloting

State	Level of Regulation	Limits on Number of Pilots	Requirements for License	Training	Duration of License	Residency Requirement
Texas (Con't)	7 independent boards; pilot members prohibited by statute; 7-member board in Houston, 5 on most other boards	the Board in Houston appoints the number of pilots necessary to provide adequate services	applying; be in good mental and physical health			
Virginia	State Board for Branch Pilots; nine members appointed by Circuit Courts of port cities. Only 4 pilots may be appointed.	no	applicants must submit a certificate from the circuit court of their county/city stating that the applicant is of good moral character and a resident of the Commonwealth; complete apprenticeship; pass written and oral exam administered by Examining Committee of Board; federal license required for full branch pilot license.	2-year apprenticeship for Limited Branch Pilot license; 5-year apprenticeship for full branch pilot license.	"Every pilot who holds a license as a branch pilot shall appear before the Board every twelve months, and, if the Board deems him qualified, it shall renew his license." §54.1-905	yes; circuit court of resident county or city must certify
Washington	State; Board of Pilotage Commissioners; 7 members: 1 assistant secretary of department of transportation, 2 licensed pilots, 2 industry, 2 persons with broad interests in maritime industry.	no	hold US gov't license as master of freight and towing vessels and first class federal endorsement for appropriate pilotage districts; pass written and oral examinations developed by board; complete familiarization trips.	Board shall establish additional training requirements, including a program of continuing education, developed after consultation with pilot organizations." (§88.16.035.) "The board may prescribe vessel simulator training for a pilot applicant [or for the first three years as pilot] as it deems appropriate, taking into consideration the economic cost of such training, to enhance that person's ability to perform pilotage duties." (§88.16.090)	five years	yes. resident of the state of Washington at the time of appointment. (§88.16.090)

In addition to questionable Board authority to regulate marine pilotage, the Act fails to mention several areas of growing concern. In particular, it does not address pilot liability or pilot associations. As outlined in the following section, these are areas of increasing contention in Alaska.

4. CURRENT STATUS OF MARINE PILOTAGE IN ALASKA

Compared to the long history of maritime law and regulation in the United States, Alaska's oversight of marine pilotage is quite recent, dating only from 1970. However, in the 20-year period since the passage of the first Marine Pilotage Act, state pilotage has undergone tremendous changes.

In 1970, piloting in the state was provided by a handful of local pilots operating in Southeast Alaska and organized in a tightly-knit pilot association. The association assumed the responsibility for maintaining standards among existing pilots and for training new pilots as needed. As Prudhoe Bay oil shipments began in Southcentral Alaska, a new group of pilots emerged and organized in response to an amendment to the Alaska statute requiring pilots on all tankers. Again, the association for this region assumed continuing education and training responsibilities.

This system of virtually self-regulated pilotage appears to have worked well until the explosion of cruise ship traffic in Southeast and the emergence of the domestic bottomfish industry in the Aleutian Chain. These two events occasioned a rapid increase in the demand for pilot services and strained the capacity of existing pilot groups to train and absorb new members. As relatively large numbers of pilots, often from out-of-state, entered the system the profession turned to the State Marine Pilot Board to establish entry standards and to exercise greater control over the industry. However, Alaska's statute, while originally intended to give the State Board flexibility—through broad regulatory powers—to deal with changing situations, was unequal to the task. The Department of Law increasingly questioned Board authority under the statute to develop standards, set pilotage rates, and to exercise overall control.

The erosion of the state board's ability to promulgate and enforce regulations for the industry took place at a time when newer pilots began to question the internal operations and politics of the traditional pilot associations. Impatient with what they perceived to be "old boy networks", preserving the income and prestige of long-term pilots, newer and younger pilots turned to the courts. Successive legal challenges raised the specter of group and individual liability for actions taken in the course of training, disciplining, or dispatching of pilots and pilot trainees. Self-regulation of the profession through associations, which had served the state well in the early years, could no longer be relied upon.

The growth in demand for pilot services brought about by the rapid increase in shipping opened opportunities for disgruntled pilots to break with existing associations and to operate independently or to form new groups. For the first time in Alaska's marine pilotage history, competition between pilots and pilot groups entered

the picture. While competition does bring with it increased responsiveness to industry needs, it also raises the question of pilot independence from shipowners. A basic tenant of state pilotage is that the pilot is first and foremost concerned with ensuring safety of life, property, and the environment and secondarily with the efficiency of trade. If unregulated competition between pilots is allowed, some argue, the above priorities are reversed: pilots act in the interests of shipowners first and only secondarily in the public interest.

Marine pilotage in Alaska at the present time reflects these new demands and tensions, each of which is discussed in more detail below.

A. REGIONAL CHARACTERISTICS

Alaska marine pilotage has rather significant regional characteristics, based both on the unique geography of the state and the general nature of shipping in each of the regions. At present, three distinct regions have formed, each with its own pilot association or group. As shipping activity increases in other parts of the state, additional regions may evolve. The salient characteristics of each existing region are described below.

1. Southeast Region—Southeastern Pilots Association (SEAPA)

The southeastern pilotage region extends from Ketchikan to Yakutat. The SEAPA office, which dispatches pilots and bills shippers, is located in Ketchikan. SEAPA does not have its own pilot boats; commercial vessels are chartered to deliver pilots to ships at the various pilot stations in the region. Approximately 80-90 percent of the ships moved by SEAPA pilots are cruise ships, with the rest being cargo ships. There are 21 members of SEAPA, all of whom hold unlimited licenses, and 15-20 contract pilots are employed by the association during peak summer months. Contract pilots can be broken into two categories, those who do not have an unlimited license (and therefore do not qualify for membership in the association), and others who have not been accepted into the association or are not interested in joining.

The Southeastern Pilots Association has experienced the most internal problems of the three major groups of marine pilots operating in the state. In the past few years the association has been beset by numerous legal difficulties. A letter²⁹ from SEAPA attorney, C.L. Cloudy includes a list of the types of legal claims that have been made against the association:

1. Assertions that because SEAPA permits use of its dispatch and income-expense pooling service by nonmembers, the non-member pilot is entitled to membership and if he is denied, then antitrust or monopoly violations have occurred.
2. Assertions that SEAPA as an association has a responsibility to arrange for and direct its membership to permit observer trips for license upgrade purposes by non-members.

3. Antitrust claims that SEAPA has no right to drop a non-member from a dispatch contract for navigational error, failure to report for assignment, or other causes.
4. Claims that SEAPA cannot lawfully limit its membership and to do so constitutes some sort of antitrust and monopolistic act.
5. Claims that income shifting as is practiced in most pilot associations is unlawful. Currently income shifting within SEAPA occurs only with respect to nonmember pilots as noted above, and year-round expenses are paid out of a summer income pool as an alternative to income shifting.
6. Claims that because SEAPA accepted a non-member for dispatch, the Association and entire membership warranted his qualifications and can be held liable for his negligence.
7. Claims that it is illegal for SEAPA to "selectively" dispatch by matching experience with the call for pilotage even though licensing may be equal.

During the past two years there have been two lawsuits brought against the association alleging that the association leadership covered up or failed to discipline members accused of alcohol abuse while on duty.³⁰ This spring two dissident pilots signed a contract with a cruise ship company to provide pilotage services directly, without going through the association.

There is little doubt that legal difficulties and internal squabbles within SEAPA have created a good deal of paranoia and discontent among a large segment of association and contract pilots in Southeast. Some were reluctant to answer the survey questionnaire because they worried that their comments could somehow become known to the SEAPA leadership. Several expressed concern that they could be forced out of work or labeled as troublemakers for their views. A number of Southeast pilots made personal visits to the Office of Management and Budget in Juneau to discuss their concerns—frequently because they did not want their opinions to be put into written form. Several stories were told of heavy-handed intimidation tactics on the part of the SEAPA leadership to quell dissent within the association. On the other hand, SEAPA officers encouraged project staff to meet with dissident pilots and incorporate their views into the study.

2. Southcentral Region—Southwest Alaska Pilots Association (SWAPA)

SWAPA organized in 1975, primarily to service the petroleum traffic out of Valdez. Currently, petroleum trade accounts for approximately 65 percent of association business. Cruise ship traffic has increased in recent years in the Prince William Sound area and now provides about 15 percent of the total, with general shipping accounting for the remainder.

The association has 17 full members, all of whom hold unlimited licenses. In addition, there are six associate members, with limited licenses, who are at various stages in the association's training program. As associate members successfully complete training and achieve unlimited licenses, they are elected to full membership.

The association handles centralized dispatch of pilots. A separate company, owned by the association, operates pilot boats for the area. Home office for the association is located in Homer. The association stations a pilot boat with three or four pilots 24 hours a day, year-round at Bligh Reef to service oil tankers. All pilots assigned to oil tanker traffic have completed a special training course sponsored jointly by the association and the oil companies.

Until three years ago, SWAPA handled all pilot service from Prince William Sound to the west and north, including the Aleutian Chain. With the establishment of Alaska Marine Pilots in Dutch Harbor, SWAPA service in western Alaska has dropped off. Currently, it handles the larger ships operated by the American President Line and will be responsible for providing pilots to service the Red Dog Mine ore shipments. The Marine Pilot Board recently defined the compulsory pilotage waters for the Kavilina area with the intention that ore ships carry a state-licensed pilot in designated waters. Over the past summer, the association experienced difficulties with the shipping company operating the ore ships out of Cominco port. State action may be needed to enforce company compliance with state pilotage regulations.

The founder of AMP had been a member of SWAPA before he broke away and established his own agency to serve exclusively shipping in the Western Alaska/Aleutian region. SWAPA members have expressed concern that AMP represents unfair competition with established associations. They also believe that AMP, as a sole proprietorship rather than the more traditional association, is far too dependent on ship's agents and therefore is in danger of falling under company control.

3. Western Alaska/Aleutians Region—Alaska Marine Pilots (AMP)

AMP is unique among pilot groups in the state. It is operated as a sole proprietorship rather than an association of pilots. The sole proprietor contracts with additional pilots. Income is distributed in a manner similar to the associations, but contract pilots have no legal voice in company management. However, as pointed out by AMP contract pilots, the right to accept or reject contract terms serves as a powerful constraint on arbitrary decisions by the proprietor.

The company provides centralized dispatch of pilots for areas west of Kodiak. Company business is associated primarily with the bottom fish industry. As mentioned above, AMP pilots do not service the larger ships working in the area. Pilot boats are provided by a separate company, which has no fiscal or legal connection with AMP.

The founder of AMP describes his organization as a response to a market niche created by the expense and difficulty of servicing the growing Aleutian Chain fishing trade

from Homer. He estimates that several millions of dollars have been saved by industry in pilot travel costs by moving pilot dispatch to Dutch Harbor. AMP also stations a pilot in Sand Point:

AMP currently consist of five senior pilots and two pilot trainees. All the senior pilots have attended simulator training at Grenoble, France. Four of the senior pilots hold limited licenses. In order to upgrade their licenses to unlimited class, they must have experience in moving vessels of larger tonnage and of docking and undocking vessels under the supervision of a state licensed pilot. AMP members have expressed concern that they can not get this prerequisite experience because they are shut out by other pilot groups from access to trips on appropriate-sized vessels.

B. IDENTIFIED PROBLEM AREAS

Captain Murphy, in his original letter, identified several pressing concerns: low entry level requirements, potential competition among pilots, and the inability of the State Board to adopt and enforce strong regulations governing the profession. An additional concern—that of individual and pilot association liability—surfaced during the course of this study. These problems are discussed at length below.

1. Entry Level Requirements

Alaska statute states that:

- a person is *entitled* to a license under this chapter if a person
- (1) is of good moral character
 - (2) is a citizen of the United States
 - (3) passes an examination given by the board; and
 - (4) qualifies under the regulations adopted by the board...³¹

By regulation, the Board has established a progressive system of licenses based on increased tonnage. Limited licenses are issued in two steps: Step 1 for vessels of not more than 20,000 gross tons and Step 2 for vessels of not more than 40,000 gross tons. The series culminates in an unlimited license, which allows the holder to pilot ships of any gross tonnage, with the exception of very large crude carrier (VLCC) class vessels. Pilots wishing to pilot VLCC's must obtain a special endorsement from the Board. The Board also issues a channel pilot license for certain areas in the state, primarily Southeast. A channel pilot has limited authority; s/he may pilot vessels of 20,000 gross tons or less in main ship channels only and may perform dockings and undockings only under the supervision of a pilot with a limited or unlimited Alaska license.

Licenses of all classes are issued by geographic area. Currently, state regulations recognize two regions—Southeastern and Southwestern Alaska—although, as described above, pilotage in Alaska has evolved distinct characteristics in three separate regions.

Pilots may operate only in the geographic area for which they are licensed; however, with the appropriate experience, pilots may be licensed in both areas.

Applicants for all classes of licenses must hold valid Coast Guard licenses both as a first-class pilot for vessels of any gross tons³² upon the waters for which the applicant seeks state licensing and as a master of steam or motor vessels of 10,000 gross tons or greater. Progression from initial licensing through unlimited licensing requires actual experience in ship movements, usually dockings and undockings, of ships of increasing size. The original intent of the regulation appears to have been that this experience would be obtained in the area for which the applicant sought licensing. However, recent interpretations of the statute and regulations by the Attorney General's office has removed this geographical limitation. Therefore, applicants desiring to move from Step 1 to Step 2 limited or to unlimited licensing in one geographic area may obtain the necessary experience in ship movements anywhere in Alaskan waters.

Applicants for initial licensing must pass a written and oral examination covering international rules of the road, seamanship, chart navigation, local knowledge of individual geographic areas, and federal/state rules and regulations affecting pilotage. Examinations are given at least once a year. In order to provide some flexibility between exam periods, the Board may issue a temporary license to applicants who meet all requirements except for the written/oral exams. To obtain a temporary license, the applicant must pass a written temporary license examination. Temporary licenses are valid until the results of the applicant's permanent license examination are determined.

Alaska's licensing procedure has been criticized on several counts. First, statutory language states that "a person is entitled to a license" if s/he meets the criteria outlined. In most other states, licensing is a discretionary power of the Board or other licensing authority rather than an individual right. Critics of Alaska's language believe that it has forced state attention (particularly in the Attorney General's office) toward protection of individual rights at the expense of industry-wide regulation and control. The result, they contend, has been regulation by exception to such an extent that licensing requirements have ceased to have any meaning.

A parallel and even greater perceived problem is that the licensing requirements themselves, even if they were enforceable, are not sufficient to insure competency. Many survey respondents and others contacted in the course of this study pointed out several weaknesses. A strong concern was that Alaska does not require enough sea-going experience prior to licensing. Applicants for an initial limited license must either have been a Coast Guard licensed master or pilot on local waters for at least one year or execute a minimum of 20 dockings and undockings under the supervision of a state licensed pilot. Channel license applicants must document "all maritime experience in the waters for which he or she is applying."³³ Critics contend that hands-on experience gained at sea is perhaps the most important pre-requisite to efficient piloting. They believe that Alaska's requirements in this respect are woefully inadequate.

A second concern regarding licensing deals with the vessel movement requirements for the various steps of license. Limited licenses (Step 1) may be granted with as few as 10 dockings and undockings, if the applicant has experience as a Coast Guard licensed master or pilot. Upgrading to a Step 2 limited license requires evidence of 20 vessel movements and five dockings/undockings. To obtain the highest level of license—an unlimited license—the applicant must complete an additional 20 vessel movements and five additional dockings/undockings.

Critics of the system point to other states, which often require an apprenticeship or a period as deputy pilot for two years or more, during which time the apprentice/deputy engages in a combination of classroom instruction, observation of master pilots, and completion of a variety of ship handling tasks under varying conditions and on vessels of increasing size. Alaska's requirements, on the other hand, can be met within a relatively short time period. Nothing in the regulations would prohibit a person from completing the required number of dockings in one or two days, all with the same ship at the same port. Indeed, there have been allegations that some applicants have done precisely this. Nor do the regulations define what is meant by a successful docking/undocking. One senior pilot facetiously responded in the survey that he could watch an applicant wipe out a dock and could still certify that he had observed a successful docking/undocking.

If the intent of the regulations is to assure that state pilots have extensive local knowledge of the waters for which they are licensed, critics argue, the current requirements are a sham, particularly since the Board no longer has even the authority to require that dockings/undockings be performed in the geographic area for which licensing is sought.

Finally, the Board requirements for license renewal have come under attack by some members of the profession. Statute provides that "a license shall be renewed without examination upon the payment of the license fee."³⁴ Licenses are renewed biennially. The Board, by regulation, has added the requirement that:

a licensee who has not piloted the compulsory pilotage waters of Alaska during either of the last two biennial license periods cannot be granted a license renewal until the board has determined that the licensee has sufficient knowledge and recent experience to pilot safely in the areas for which the licensee is licensed.³⁵

Critics cite problems with this renewal process. They contend that holders of licenses who pilot in even a very limited portion of Alaskan waters can continue to be licensed indefinitely for large geographic areas or even for the state as a whole. Numerous anecdotal accounts of pilots licensed for areas and ports they had not visited for years surfaced during the course of this study. A related concern is that a license holder could make one trip during a four-year period (two biennial license periods) and still be eligible for renewal without meeting any recency requirements.