

Maine Pilotage Commission



MaineDOT ~ Room 216 Conference Room
October 31, 2024

Minutes of Pilotage Commission Meeting

In fulfilling the direction of the Maine Pilotage Commission to establish a Legislative Subcommittee as adopted at the September 23, 2024; the first Legislative Subcommittee meeting was convened on October 31, 2024.

As duly voted, the members of the Legislative Subcommittee are as follows:

David Gelinias	– Pilot Member
Jerry Morrison	– Pilot Member
Lindsey Pinkham	– Public Member
Carrie Norton	– Public Member
Brian Downey	– Pilotage Commission Administrator (Facilitator)

The established goals of the Subcommittee are to:

1. Review the draft legislation intended to be presented to the 132nd Legislature in the First Regular Session of 2025 to shift regulatory jurisdiction of the Portland Branch Bar Pilots from the Portland Board of Harbor Commissioners to the Maine Pilotage Commission;
2. Identify any potential impacts to the Maine Pilotage Commission's statutes and rules in the event the legislature directs a shift in the aforementioned jurisdiction; and to
3. Make recommendations to the full Maine Pilotage Commission for comprehensive consideration of any necessary action or changes to statute or rules to effect a change in jurisdiction.

Subcommittee members in attendance were as follows:

David Gelinias	– Pilot Member
Jerry Morrison	– Pilot Member
Lindsey Pinkham ¹	– Public Member

Brian Downey – Pilotage Commission Administrator (Facilitator)

Interested Parties in attendance were as follows:

Mark Klopp – Klopp Marine Services

Calvin Klopp – Portland Pilots Inc.

Steve Brenton¹ – Portland Pilots Inc.

Adam Philbrook – Penobscot Bay and River Pilots

Jim Cohen – Attorney

Maine DOT and legal staff present were:

Chris Mayo – MaineDOT

John Belisle – Maine Attorney General’s Office

¹ via remote feed

Call to Order (Facilitator)

Brian Downey opened the meeting at 10:30 a.m. and acknowledged a quorum. Mr. Downey reviewed the goals and outlined the protocol of the Legislative Subcommittee, with particular emphasis that the Subcommittee is a review body that will make recommendations to the full Commission for any necessary action.

Review/Approval of the Legislative Subcommittee Minutes from October 18, 2024 (Facilitator)

After considering the content of the October 18, 2024 Pilotage Commission Legislative Subcommittee meeting minutes, David Gelinas moved to accept the minutes as drafted; Lindsey Pinkham seconded the motion.

Hearing no objections or abstentions, it was thus:

RESOLVED to accept the minutes of the October 18, 2024 Legislative Subcommittee meeting.

Gap Analysis Review Portland vs. Maine Pilotage Commission Statute

The Subcommittee reviewed the language of the draft legislation and arrived at the following conclusions as detailed in the Subcommittee Recommendation column of the table below.

STATUTORY GAP ANALYSIS			
38 MRS Chapter 1 Sub-chapter 3			
Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
1	38 MRSA §85-B, sub-§3	Proposed to be amended to read:	Change Port Clyde to Southport Island to permit a Portland Pilot to serve as a Commission member.

STATUTORY GAP ANALYSIS

38 MRS Chapter 1 Sub-chapter 3

Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
		<p>3. Coastal zones. "Coastal zones" means the 3 areas of Maine coastal waters relevant to the commission membership, Calais to Schoodic Point, Schoodic Point to Port Clyde, and Port Clyde to Kittery, excepting the port of Portland and Casco Bay</p>	
2	<p>38 MRSA §86-A</p>	<p>Proposed to add the following definition:</p> <p>3. Portland Harbor. Those waters specifically governed by the Board of Harbor Commissioners for the Harbor of Portland, except that the commission shall retain those duties set forth in section 90 as they relate to State Branch Bar Pilots operating in such waters. For purposes of this paragraph, "State Branch Bar Pilot" means any person taken on board a vessel for the purpose of navigating a vessel subject to pilotage through the entrance, approaches or any channel within a harbor, other than navigating incidental to the activity of directing the mooring, anchoring, docking or undocking of vessels. Nothing in this section is intended to confer jurisdiction or duties upon the commission with respect to the activities of docking masters governed by the Board of Harbor Commissioners for the Harbor of Portland.</p>	<p>Directed Mr. Cohen to engage with the Maine Pilotage Commission counsel to further develop language that better clarifies that jurisdiction of the Maine Pilotage Commission does not include docking masters. It is critical that if a merger is made of all "Sea/Branch Bar Pilots, that the Maine Pilotage Commission will remain the sole authority for such pilots.</p> <p>Take the opportunity to correct 86-A to remove Frenchman Bay and Eastport from the exempted waterways.</p>
3	<p>38 MRSA §87-A, sub-§1, paragraph F,</p>	<p>is proposed to read:</p> <p>F. Noncommercial foreign vessels with overall length of under 253 feet, except in the case of Portland Harbor; and.</p>	<p>Accept the proposed change due to the confines and higher congestion of Portland Harbor.</p>
4	<p>38 MRSA §87-A, sub-§1,</p>	<p>paragraph G, is proposed to be enacted to read:</p> <p>G. In the case of Portland Harbor, foreign, noncommercial vessels under 350 gross tons for yacht or recreational purposes and American noncommercial vessels under 350 gross tons and sailing coastwise or under registry for yacht or recreational purposes.</p>	<p>Accept the proposed change due to the confines and higher congestion of Portland Harbor.</p> <p>It is also specifically recommended that a new Exemption is created as paragraph G of 38 MRSA 87-A that exempts vessels under the direction of an individual licensed under Private and Special Law 1981, Chapter 98 Section §5, sub-§2.</p>
5	<p>PS&L 1991, ch. 98, §5, sub-§2,</p>	<p>is proposed to be repealed and replaced with the following:</p> <p>2. Operation as pilot. The rates, licensure, apprenticeship, continuing education, fees, safety and other activities related to State Branch Bar Pilots operating upon the waters subject to the</p>	<p>Portland Board of Harbor Commissioners Law – Not under Maine Pilotage Commission jurisdiction or control.</p> <p>Correct PS&L 1991 to PS&L 1981.</p>

STATUTORY GAP ANALYSIS

38 MRS Chapter 1 Sub-chapter 3

Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
		<p>jurisdiction of the commission shall be overseen and regulated by the Maine Pilotage Commission pursuant to title 38, chapter 1, subchapter 3 of the laws of Maine. Nothing in this section is intended to limit the authority of the commission to oversee and regulate the activities of docking masters operating on waters subject to the jurisdiction of the commission.</p>	
6	Rulemaking. Resolved:	<p>Within six months of the effective date of this legislation, the Maine Pilotage Commission shall commence a rulemaking with regard to Chapter 1 of its rules whereby the Commission shall initially adopt in substantially the same form, for a period of time at least thirty-six months in duration, the provisions contained in Section 17.0 of the rules of the Board of Harbor Commissioners for the Harbor of Portland as of the effective date of this legislation as they relate to the licensure, apprenticeship, continuing education, safety, and other provisions therein as they relate to State Branch Bar Pilots operating in Portland Harbor; provided, however, that any fees assessed upon State Branch Bar Pilots operating in Portland Harbor are consistent with fees assessed upon pilots subject to the jurisdiction of the Commission, and provided further that, following the thirty-six month time period noted in this section, the Commission can further amend the rules governing State Branch Bar Pilots operating in Portland Harbor without regard to consistency with Section 17.0 of the rules of the Board of Harbor Commissioners for the Harbor of Portland. Nothing in this provision shall limit the ability of the Commission to organize the foregoing provisions and standards into the Commission’s existing rules provided that the application of such rules to State Branch Bar Pilots operating in Portland Harbor are substantially similar to the provisions in Section 17.0 of the rules of</p>	<p>Need to continue discussion of the scope of the intent to keep rules “organize the foregoing provisions and standards into the Commission’s existing rules provided that the application of such rules to State Branch Bar Pilots operating in Portland Harbor are substantially similar to the provisions in Section 17.0 of the rules of the Board of Harbor Commissioners for the Harbor of Portland.”</p>

STATUTORY GAP ANALYSIS
38 MRS Chapter 1 Sub-chapter 3

Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
		<p>the Board of Harbor Commissioners for the Harbor of Portland. Rules adopted pursuant to this section are routine technical rules. Commencing on the effective date of this act and pending final adoption of rules pursuant to this section, State Branch Bar Pilots operating in Portland Harbor shall be subject to the jurisdiction of the Commission according to any terms or conditions in place during such time period as duly authorized by the Board of Harbor Commissioners for the Harbor of Portland.</p>	

The Subcommittee opted to delay further review of potential Rule changes until the status of the legislation is better known.

Adjourn (Facilitator)


Lindsey Pinkham moved to adjourn, David Gelinas, seconded the motion. Hearing no objections, and Carrie Norton abstaining, it was thus:

RESOLVED to adjourn the Legislative Subcommittee meeting. Brian Downey adjourned the meeting at approximately 1:15 p.m..

Following Meeting: Full Commission Meeting

November 18, 2024 at 10:30 a.m.

Maine DOT
Room 227B
24 Child Street
Augusta, ME 04330



Brian J. Downey Jr.
Maine Pilotage Commission
Administrator

Respectfully submitted: