

Maine Pilotage Commission



MaineDOT ~ Room 216 Conference Room
November 21, 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 third Legislative Subcommittee meeting was convened on November 21, 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
Adam Philbrook	– Pilot 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.
4. David Gelinias made it very clear that an important result of any new legislation should be to have the Maine Pilotage Commission be the sole authority issuing state Pilots licenses.

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 ¹ – Klopp Marine Services
 Calvin Klopp – Portland Pilots Inc.
 Susan Klopp – Klopp Marine Services
 Steve Brenton – Portland Pilots Inc.
 Jim Cohen – Attorney

Maine DOT and legal staff present were:

Chris Mayo ¹ – MaineDOT
 John Belisle – Maine Attorney General’s Office

¹ via remote feed

Call to Order (Facilitator)

Brian Downey opened the meeting at 1:00 p.m. and acknowledged a quorum. Mr. Downey reviewed the goals and outlined the protocol of the Subcommittee, with particular emphasis that the Subcommittee is a review body that will make recommendations to the full Commission for any necessary action.

Gap Analysis Review Portland vs. Maine Pilotage Commission Rules/Statutes

Mr. Cohen offered that, if passed, the legislation would be effective 90 days following passage and estimated that an effective date may be in the vicinity of September 15, 2024.

The Subcommittee acknowledged that a Rules analysis will be addressed separately after the legislative portion of the project is finalized.

The Subcommittee reviewed the language of the draft legislation as modified by previous Subcommittee feedback/meetings and arrived at the following conclusions as detailed in the Subcommittee Feedback column of the table below.

STATUTORY GAP ANALYSIS			
38 MRS Chapter 1 Sub-chapter 3			
Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
A	N/A	An Act to Enable the Maine Pilotage Commission to Oversee the Certification and Rate of Sea Pilots Operating in Portland Harbor	Change title to: An Act to Enable the Maine Pilotage Commission to Oversee Pilots Operating in Portland Harbor
1	38 MRSA §85-B, sub-§3	Proposed to be amended to read:	Satisfactory.

STATUTORY GAP ANALYSIS

38 MRS Chapter 1 Sub-chapter 3

Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
		<p>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 Southport Island, and Port Clyde Southport Island 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 pilots operating in such waters. Nothing in this section is intended to confer jurisdiction or duties upon the commission with respect to the activities of docking masters overseen by the Board of Harbor Commissioners for the Harbor of Portland.</p>	<p>Simplified the language to refer to "pilots," relying on the meaning of that term under the laws governing the Maine Pilotage Commission.</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>Keep the status quo with no exemption 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>Remove "coastwise."</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 pilots operating upon the waters subject to the 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 any authority otherwise maintained by the commission to oversee and regulate the activities of docking masters operating on waters subject to the jurisdiction of the commission, which such services may not include the service of actively</p>	<p>Portland Board of Harbor Commissioners Law – Not under Maine Pilotage Commission jurisdiction or control.</p> <p>Modified the language to make clear that, 36 months after the Commission adopts rules "substantially similar" to Chapter 17 of the rules of the Portland Harbor Commission, the MPC will have full discretion to modify the rules governing pilots in Portland Harbor without having to adhere to Chapter 17.</p>

STATUTORY GAP ANALYSIS

38 MRS Chapter 1 Sub-chapter 3

Item	MPC Reference	Suggested Edit Item	Subcommittee Feedback
		<p>piloting under the jurisdiction of the Maine Pilotage Commission.</p>	
6	Rulemaking. Resolved:	<p>Proposed to be added to read:</p> <p>Sec. 6. Rulemaking. Resolved: 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 pilots operating in Portland Harbor; provided, however, that any fees assessed upon pilots operating in Portland Harbor are consistent with fees assessed upon pilots subject to the jurisdiction of the Commission. In adopting such initial rules, 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 the Board of Harbor Commissioners for the Harbor of Portland. Following the thirty-six month time period after initial adoption of the rules noted earlier in this paragraph, the Commission may further amend the rules governing 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. 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, 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>	<p>Modify: "...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..."</p> <p style="text-align: center;">to</p> <p>"...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..."</p> <p>Further, it is recommended that the Board of Harbor Commissioners be directed to modify their rules in a similar manner to the Maine Pilotage Commission to ensure Section 5 and other needed Rules are properly modified. Suggested that a Section 7 of the legislation be added to detail this statutory direction.</p>

It was determined that the Subcommittee ready to make present the modified legislation (pending the suggested edits of this meeting) to the full Commission for their consideration..

Adjourn (Facilitator)

David Gelinas moved to adjourn, Jerry Morrison, seconded the motion. Hearing no objections, or abstentions, it was thus:

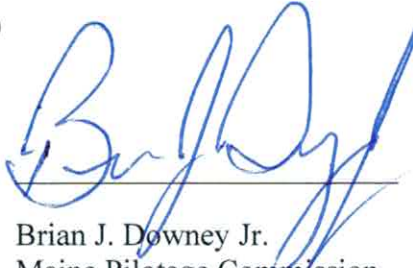
RESOLVED to adjourn the Legislative Subcommittee meeting. Brian Downey adjourned the meeting at approximately 2:30 p.m..

Following Meeting: Full Commission Meeting

December 6, 2024 at 10:30 a.m.

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

Respectfully submitted:



A handwritten signature in blue ink, appearing to read 'Brian J. Downey Jr.', is written over a horizontal line.

Brian J. Downey Jr.
Maine Pilotage Commission
Administrator