



**STATE OF CONNECTICUT**  
*DEPARTMENT OF TRANSPORTATION*  
**CONNECTICUT PILOT COMMISSION**



**CONNECTICUT PILOT COMMISSION**  
**ANNUAL REPORT**

**JULY 1, 2005 – JULY 1, 2006**

Pursuant to Conn. Gen. Stat. ch. 263, sec. 15-13c, the Connecticut Pilot Commission advises the Commissioner of Transportation (“DOT”) on issues related to the licensure of marine pilots, the safe conduct of vessels, pilotage rates, and the protection of the ports and waters of Connecticut. The seven Commission members, who are appointed by the Governor and various legislative leaders, represent a broad spectrum of business, maritime, and environmental interests. The Commission currently includes members with expertise in admiralty law and marine regulation, environmental law, involvement in marine-related business, and experience as Merchant Marine and Naval officers. This is a report of the Commission’s activities for the period July 1, 2005 through July 1, 2006.

**Background**

Long Island Sound ports (consisting of Connecticut’s three deepwater ports and petroleum terminals on Long Island’s north shore) are vital to the regional economy. These ports provide millions of people with access to global commerce and offer the potential to reduce congestion along the northeast corridor. In addition to petroleum products, Connecticut ports handle lumber, steel, scrap, fruit, and chemical cargoes shipped to and from every part of the world.

As is the case throughout the maritime world, merchant ships arriving at Long Island Sound ports are required by law to take aboard a local pilot, who has up-to-date knowledge about hazards to navigation, tides and current, communications, and vessel traffic. Conn. Gen. Stat. ch. 263, sec. 15-15. As advisors to the ship’s Master, pilots typically direct the vessel’s movement in restricted or congested waters, including docking. During calendar year 2005, 420 deep-sea vessels subject to compulsory state pilotage called at Long Island Sound Ports. These ships generated pilotage and related fees in excess of \$2 million.

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Pursuant to the Federal Boundary Waters Act, 46 U.S.C. sec. 8501(b) and Conn. Gen. Stat. ch. 263, sec. 15-15d, Connecticut and New York share authority to regulate pilotage on Long Island Sound. The Boundary Waters Act entitles New York-licensed pilots to pilot ships to all Connecticut ports and Connecticut-licensed pilots to pilot ships to New York ports on Long Island Sound. The two states are party to a 1999 Memorandum of Agreement (“MOA”), implemented by regulation, under which Connecticut-licensed pilots and New York-licensed pilots participate in a joint rotation to provide pilotage service for all ports on the Long Island Sound. Conn. Agencies Regs. Sec. 15-15a-17. The rotation is administered by a Joint Administrator, designated by the mutual agreement of Connecticut and New York. The Joint Administrator establishes work rules, dispatches pilots to assignments, collects pilotage fees, pays expenses, and distributes earnings.

Under the MOA, the DOT retains authority to promulgate regulations respecting the licensing, conduct, and duties of Connecticut-licensed pilots as necessary to ensure public safety and protection of the environment. Conn. Gen. Stat. ch. 263, sec. 15-15a. The DOT also sets pilotage fees. Conn. Gen. Stat. ch. 263, sec. 15-14. The Pilot Commission and DOT work closely with the New York Board of Commissioners of Pilots to coordinate the regulation of pilotage on Long Island Sound. The Pilot Commission and DOT also maintain an active working relationship with the U.S. Coast Guard, which regulates many aspects of merchant vessel operations.

Enrolled vessels (coastwise U.S.-flag vessels) and public vessels are not subject to compulsory state pilotage. Pilotage of these vessels is regulated by the U.S. Coast Guard. Connecticut-licensed pilots may pilot enrolled or public vessels on the authority of their federal licenses outside the joint rotation.

### **The Commission Members**

Chairman: Michael J. Eisele. Appointed by the Governor for a term ending June 30, 2008 to represent non-recreational maritime industry interests.

Vice-Chairman: Vernon C. Miller, Jr. Appointed by the House Minority Leader for a term ending June 30, 2007 as a member with expertise in admiralty law.

Member: Joseph X. Staneko. Appointed by the Senate Minority Leader for a term ending June 30, 2006 as a retired ship’s Master.

Member: David T. Shuda. Appointed by the Speaker of the House for a term ending June 30, 2008 to represent non-recreational maritime industry interests.

Member: David E. Pohorylo. Appointed by the Senate Majority Leader for a term ending June 30, 2008 to represent environmental interests.

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Member: William C. Gash, Jr. Appointed by the Senate President Pro Tempore Donald E. Williams, Jr. for a term ending June 30, 2007 to represent environmental interests.

Member: Joseph Russo. Appointed by the House Majority Leader for a term ending June 30, 2007 to represent non-recreational maritime industry interests.

### **Current Issues**

#### Pilotage Rates

Pursuant to Conn. Gen. Stat. sec. 15-14, the DOT is obligated to set pilotage rates. The Commission is charged with the duty to advise the Commissioner on “the establishment of fair and reasonable rates of pilotage . . . including establishment of a hearing process for the setting of fair and reasonable rates of pilotage[.]” Conn. Gen. Stat. Sec. 15-13c. Pilotage rates have not been changed since 1983, although certain related fees (principally docking and standby fees) are not regulated by the DOT and have been periodically adjusted. The Commission believes that the rate structure should fairly compensate pilots, justify the substantial capital investment required to acquire and maintain pilot boats, and provide for training costs. These factors must be balanced against a desire to keep Connecticut ports competitive with other east coast ports and provide consumers of pilot services with quality pilotage at reasonable costs. In particular, the Commission believes that the rate structure should encourage the consolidation of pilot boat services.

The Commission has considered the issue of pilotage rates numerous times over the past few years. During 2004, the Commission issued a request for comments related to pilotage rates, culminating in a June 10, 2004, public meeting at which the Commission heard comments and discussed making a recommendation to DOT regarding the rate structure. During 2005, the Commission and DOT received several proposals for a rate increase from groups representing Connecticut-licensed pilots.

Late in 2005, the Commission was asked to consider a fuel surcharge in light of substantial increases in the price of diesel fuel, which is a major component of the cost of operating pilot boats. The Commission reviewed data regarding the cost of dockage, insurance, maintenance, capital costs, labor and fuel. In light of this review, the Commission made a November 28, 2005 recommendation to DOT in favor of a temporary fuel surcharge in the amount of \$150 per boarding or disembarkation, for a period not to exceed six months. Following public notice and a comment period, the DOT implemented that recommendation effective February 1, 2006. The New York Board implemented an identical temporary fuel surcharge.

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On July 13, 2006 the Commission made a recommendation that the temporary fuel surcharge be increased to \$200 per boarding or disembarkation and extended to January 31, 2007. Following public notice and a comment period, the DOT implemented this recommendation. The New York Board implemented an identical increase and extension in the temporary fuel surcharge.

The Commission is continuing its review of the pilotage rate structure with the intention of making a comprehensive recommendation to DOT. The Commission expects that any recommendation will anticipate consolidation of pilot boat services.

Pursuant to the MOA, each state is entitled to set pilotage rates charged by pilots operating under its authority. However, the Commission believes that it is highly desirable to coordinate any rate change with the New York Board, which requires legislative approval of certain components of the pilotage rates.

### Joint Rotation Operation

Pursuant to the MOA and implementing regulation, participation in the joint rotation is mandatory for both Connecticut-licensed pilots and New York-licensed pilots. The Joint Administrator dispatches pilots, collects fees, pays expenses (including pilot boat costs) and distributes profits among the pilots. Unlike most other jurisdictions, pilots participating in the joint rotation are not compelled to belong to a single business entity. During the past year, four separate pilot organizations operated within the joint rotation, each utilizing its own pilot boats.

Connecticut currently licenses 15 pilots, 7 of whom are also licensed by the New York Board. As a condition of maintaining their Connecticut licenses, all of these pilots must possess federal licenses endorsed for first-class pilotage. The 8 pilots who are only licensed by Connecticut participate in the Connecticut side of the joint rotation and are allocated 70% of vessel movements subject to the joint rotation pursuant to the terms of the MOA. Pilots licensed by New York (including the 7 pilots who are licensed by both Connecticut and New York) participate on the New York side of the joint rotation and are allocated 30% of vessel movements. During 2005, a total of 12 pilots participated on the New York side of the rotation.

During calendar year 2005, the Joint Administrator dispatched pilots to handle 937 vessel movements. The 8 pilots participating on the Connecticut side of the joint rotation covered 649 of these movements (69.2%). The largest number of movements handled by a Connecticut pilot was 113; the smallest was 20.

The joint rotation is administered by Sound Pilots, Inc. (d/b/a Block Island Pilots), selected by agreement of the DOT and the New York Board. The operation of the joint rotation is overseen by a Rotation System Executive Board, consisting of three pilots from the Connecticut side and three pilots from the New York side of

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the rotation. The implementing regulations require an annual evaluation of the Joint Administrator's performance. The Pilot Commission began an evaluation during 2005 with an intention to make a recommendation to the DOT. That evaluation has not been completed.

On May 9, 2005, Captain Charles Jonas initiated an administrative proceeding with the DOT, seeking a declaratory ruling with respect to the operation of the joint rotation. In Re Petition to Connecticut Department of Transportation for Declaratory Ruling by Charles Jonas, No. A&P:05-1. In this proceeding, Captain Jonas challenged the manner in which assignments are made by the Joint Administrator as well as the distribution of pilotage fees. On November 1, 2005 the DOT denied the petition. No appeal was taken.

### Boarding Stations

The Commission's mandate specifically includes the provision of advice regarding the designation of pilot boarding stations. Conn. Gen. Stat. ch. 263, sec. 15-13c(e)(9). During 2004, the Commission issued a comprehensive report recommending that DOT establish mandatory pilot boarding and disembarkation stations off the coast of Point Judith, Rhode Island and Montauk Point, New York. After reviewing industry comments and consulting with the New York Board and U.S. Coast Guard, the DOT issued instructions to Connecticut-licensed pilots dated March 1, 2005 requiring use of the boarding and disembarkation stations. The DOT's instructions are consistent with the New York Board's requirements for New York-licensed pilots.

During 2005, the DOT initiated administrative proceedings against a Connecticut-licensed pilot for a failure to use the designated boarding and disembarkation stations on five occasions. Hearings were conducted during November, 2005 and January and March, 2006. The matter was pending as of July 1, 2006.

### Broadwater Energy LNG Project

In November, 2004 Broadwater Energy submitted to the U.S. Coast Guard a letter of intent to construct and operate a floating storage and regasification unit ("FSRU") for LNG in the New York waters of Long Island Sound. The proposed FSRU would receive shipments from LNG carriers for regasification and transmission ashore via submarine pipelines. Broadwater Energy anticipates that the project will involve 100 to 160 vessel calls annually. These ships are expected to be up to 1,000' LOA, drawing as much as 39'.

The Federal Energy Regulatory Commission, in cooperation with the Coast Guard and other agencies, is charged with licensing the proposed FSRU. The Coast Guard is principally responsible for addressing issues related to routing, navigation safety, and port security.

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At the invitation of the Pilot Commission, representatives of Broadwater Energy attended the Commission's public meetings in July and September, 2005 to brief the Commission on the project. On September 26 2005, the Commission wrote to Governor Rell to offer its expertise to a Task Force formed for the purpose of reviewing Broadwater Energy's proposal. It is not anticipated that the Pilot Commission will have any role in the licensing process other than to respond to any inquiries from the regulatory agencies. However, the Pilot Commission believes that the project has implications for pilotage, particularly given the number, size, and complexity of LNG vessels, and is considering making recommendations to DOT with respect to the selection and qualification of pilots as well as the imposition of training requirements. The Pilot Commission will also consult closely with the New York Board in an effort to implement uniform requirements for the pilotage of these vessels.

### Legislation

During the spring, 2006 legislative session, several competing bills impacting the Commission were introduced in the legislature. Ultimately, Senate Bill 521 (concerning the training of apprentice pilots) was withdrawn and Senate Bill 519 (concerning the composition and authority of the Pilot Commission) was incorporated into Substitute Bill 5664 and passed by both the State Senate and House. As of July 1, 2006 Substitute Bill 5664 was awaiting action by the Governor.

As passed, this bill would amend Sec. 15-13c of the General Statutes to add two members to the Commission, one to be designated by DOT and one to be elected by the pilots participating on the Connecticut side of the joint rotation. The bill also requires that those members who are designated to represent environmental interests have no economic interest in pilotage matters and that one member representing maritime-related industry have a shipping agent perspective. In addition, the bill empowers the Commission to establish pilot qualifications, examination requirements, and the number of pilots, subject to DOT approval. The Commission would continue to advise DOT on a broad range of pilotage issues.

### Litigation

In August, 2003 New England Shipping Company, Inc., a local agency representing ship owners and charterers, filed suit in the U.S. District Court for the Eastern District of New York against Block Island Pilots, the New York Board, and related individual defendants. New England Shipping Company, Inc. v. Block Island Pilots, et al., Civil Case No. 03-4273. In this case, New England Shipping Company essentially sought a declaration that New York does not have exclusive jurisdiction to regulate pilotage in western Block Island Sound, a position taken by the New York Board prior to implementation of the MOA. On February 11, 2005 the Commission made a recommendation to DOT that it

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participate in the resolution of this case as amicus curie or as an intervening party. On April 29, 2005 DOT advised the Commission that it would not seek to intervene or otherwise participate in the case, but that it would reconsider this position as the case progressed. As of July 1, 2006 the parties had fully briefed cross-motions for summary judgment and were awaiting a decision by the Court.

We note that Commissioner David Pohorylo is employed by New England Shipping Company, Inc. and has recused himself from any deliberations regarding this matter.

### Other Items

On the night of September 24, 2005 the crew of the pilot boat CONSTITUTION rescued a yachtsman clinging to an overturned dinghy outside Stonington Harbor. The wayward sailor was safely delivered ashore for medical attention, briefly delaying a departing ship.

At its October 13, 2005 public meeting, the Commission joined DOT in honoring former Chairman Donald J. Sheetz, citing his professionalism and dedication during the almost nine years that he led the Commission.

At the request of DOT, the Coast Guard extended the geographic limits of pilotage endorsements in the western Long Island Sound to City Island to harmonize the federal endorsement with the waters subject to the MOA.

Finally, the Pilot Commission extends its sincere thanks to Captain Joseph X. Staneko, who retired from the Commission upon the completion of his term on June 30, 2006. Captain Staneko, who came to the Commission after a sea-going career, brought a tremendous amount of experience, wisdom, and wit to the Commission's deliberations. His counsel will be greatly missed.

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Michael J. Eisele  
Chairman, Connecticut Pilot Commission