



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
CONNECTICUT PILOT COMMISSION



CONNECTICUT PILOT COMMISSION
ANNUAL REPORT
January 01 – December 31, 2015

Pursuant to Connecticut General Statute (“CGS”) 263, sec 15-13c, the Connecticut Pilot Commission (“CPC”) advises the Commissioner of Transportation (“CTDOT”) on issues related to the licensure of marine pilots and advises the Connecticut Port Authority (“Authority”) with respect to the safe conduct of vessels, pilotage rates and the protection of the ports and waters of Connecticut. The nine Commission members, including appointees of the Governor, the Authority, various legislative leaders and a pilot representative, represent a broad spectrum of business, maritime, and environmental interests. The CPC currently includes members with expertise in admiralty and environmental law, shipping, stevedoring and port operations as well as experience as Merchant Marine, Navy, and Coast Guard officers. Further information regarding the CPC, including a monthly meeting schedule, agenda and minutes, is available at www.ct.gov/dot/cwp/view.asp?a=2314&q=307026. This is a report of the CPC’s activities for the period January 1, 2015 through December 31, 2015.

Background

Long Island Sound ports (consisting of deep water terminals at New London, New Haven and Bridgeport as well as 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 roadway congestion along the northeast corridor. In addition to petroleum products Connecticut’s deep draft ports handle lumber, rolled steel, scrap metal, coal, salt and chemical cargoes shipped to and from every part of the world. In addition, international cruise ships periodically call at New London.

Foreign flag and American merchant vessels under register arriving at Long Island Sound ports are required by law to take aboard a local State licensed pilot who has up-to-date knowledge about hazards to navigation, tides and current, communications and vessel traffic (CGS 263 sec. 15-15). As advisors to the ship’s Master, state licensed pilots direct the vessel’s movement in restricted waters, including docking and undocking. Pursuant to the Federal Boundary Waters Act, 46 U.S.C. sec. 8501(b) and CGS 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 on the New York waters of 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 Rotation Administrator (“JRA”), designated by the mutual agreement between Connecticut and New York. The JRA establishes work rules, dispatches pilots to assignments, collects pilotage fees, pays expenses and distributes earnings. During calendar year 2015, the JRA dispatched pilots to 506 assignments (up from 453 in 2014). Pursuant to the MOA, the CT side of the rotation filled 70% (354) of these assignments. The pilotage fees generated by CT licensed pilots working on the CT side of the rotation totaled \$1,116,068.09, up from \$980,561.31 in 2014, of which 6% (\$66,964.09) was remitted to the Connecticut General Fund pursuant to Conn. Agencies Regs. Sec. 15-14-3.

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Under the MOA, CTDOT regulates the licensing, conduct, and duties of Connecticut-licensed pilots as necessary to ensure public safety and protection of the environment (CGS 263 sec.15-15a.). The CPC and CTDOT work closely with the Board of Commissioners of Pilots of the State of New York ("NY Board") to coordinate the regulation of pilotage on Long Island Sound. The CPC and CTDOT also maintain an active working relationship with the U.S. Coast Guard, which regulates many aspects of merchant vessel operations.

Certain U.S. flag vessels in domestic trades (enrolled vessels) and naval or government-operated vessels (public vessels) are exempt from compulsory state pilotage. Pilotage of these vessels is regulated by the Coast Guard, which issues federal pilotage endorsements. Connecticut-licensed pilots may pilot enrolled or public vessels on the authority of their federal pilotage endorsements outside the joint rotation.

The Commission Members

The CPC consists of nine members, including appointees of the Governor and various legislative leaders, the Commissioner of the Department of Transportation and an elected pilot representative. During 2015 the following were members of the CPC:

Alan Blume. Re-appointed on July 17, 2012 by Speaker of the House Donovan for a term ending June 30, 2016 to represent non-recreational maritime industry interests. Mr. Blume resigned from the Commission effective September 1, 2015.

Christopher P. Clark. Appointed November 19, 2015 by Speaker of the House Sharkey to represent non-recreational maritime industry interests for the remainder of Mr. Blume's term, ending June 30, 2016.

K. Wynne Bohannon. Appointed on July 3, 2013 by Governor Malloy for a term of ending June 30, 2017 as a representative of a maritime-related industry.

Michael Eisele. Appointed on June 8, 2012 by House Minority Leader Cafero for a term ending June 30, 2016 as a member with expertise in admiralty law.

William C. Gash, Jr. Re-appointed on June 25, 2012 by Senate President Pro Tempore Williams for a term ending June 30, 2016 to represent public environmental interests. Appointed as Chairman by Governor Malloy on August 27, 2012.

Ralph Gogliettino. Re-appointed on August 9, 2013 by Senate Majority Leader Looney for a term ending June 30, 2017 to represent public environmental interests.

David E. Pohorylo. Re-appointed on August 3, 2011 by House Majority Leader Sharkey for a term ending June 30, 2015 to represent non-recreational maritime industry interests.

Captain Philip D. Gaughran. Active pilot elected by a majority of Connecticut-only licensed pilots for an indefinite term. Captain Gaughran resigned from the Commission effective December 31, 2015. Captain Michael A. Peszke was elected by the Connecticut-licensed pilots to replace Captain Gaughran for an indefinite term beginning January 1, 2016.

Captain Charles C. Beck, USCG. (Ret.). Appointed by Senate Minority Leader Fasano on June 1, 2015 for a term ending June 30, 2018 as a retired ship's Captain.

Joseph Salvatore, Connecticut Department of Transportation Maritime Manager. Selected by the Commissioner of the Department of Transportation to serve as his designee for an indefinite term.

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Current Issues

Goals and Objectives

The CPC charted a strategy in the form of a 2-page statement of 'missions, objectives and goals' adopted in 2009. The CPC's objectives fell into four main categories:

- 1) Enhance and maintain marine safety & environmental protection
 - a. Training
 - i. Apprentice selection and training
 - ii. Continuing training of licensed pilots
 - iii. Establishment of a training fund
- 2) Maintain competitive pilot rates
 - a. Training Fund
 - b. Fuels Surcharge-automatic index
 - c. Pilot Boat Fee-codification
 - d. Pilotage rate-automatic index
- 3) Optimize the organization of Connecticut pilotage
 - a. Single Pilot Organization
 - b. Pilot Boat Consolidation
- 4) Establish standard operating procedures

The following goals were identified as requiring priority action:

- 1) Establishing an apprentice selection and training program for apprentice pilots as submitted by the CPC to CTDOT in October, 2008.
- 2) Amending the state statute that created the CPC to include administrative support from the CTDOT for the CPC similar to that provided for the CT Maritime Commission.

Both priority goals were accomplished prior to 2015. As part of the regulatory change that created an Apprentice Selection and Training Program, marine pilots licensed by CT organized around the Connecticut State Pilots d/b/a Interport Pilots. No changes were made to the Goals and Objectives during 2015.

Connecticut Port Authority

In 2014, the CT legislature passed a bill to establish the Authority for the purpose of coordinating port development, pursuing funding for dredging and other infrastructure improvements, marketing Connecticut ports, promoting and coordinating capital projects and developing strategic initiatives to increase cargo movement through Connecticut ports. To effect a transition of certain maritime functions of the CTDOT to the Authority, the legislation established a Port Authority Working Group ("PAWG"). Pilot Commissioner Dave Pohorylo was appointed to the PAWG during 2014. Summary reports and other documents reviewed at the three PAWG meetings were provided to the CPC for review. At issue is the potential for transferring administrative responsibility for the CPC from the CTDOT to the Connecticut Port Authority, to another state agency or to empower the CPC as a regulatory organization as opposed to the purely advisory role the CPC currently plays. Those discussions continued throughout 2015.

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Pilotage Rates

Pursuant to CGS 263 sec. 15-14, the Authority is obligated to set pilotage rates. The CPC is charged with advising the Authority 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.” (CGS 263 Sec. 15-13c). In analyzing pilotage rates, the CPC seeks to balance a desire to keep Connecticut ports competitive with the notion that the rate structure should fairly compensate pilots, justify the substantial capital investment required to acquire, maintain and operate pilot boats and provide for the costs of training and safety equipment. The MOA entitles Connecticut and New York to separately set pilotage rates for those pilots operating under their respective authority, but recognizes that it is highly desirable for the two states to maintain identical rate structures. Thus, the CTDOT and the NY Board have long sought to coordinate any change in rates, which requires NY legislative approval of certain components of its rates and approval by the CT Legislature’s Regulation Review Committee.

On June 21, 2012 the NY Legislature enacted a 12% increase to the pilotage rate limited to the transit of Long Island Sound, spread over 5 years. On July 17, 2012 the CPC recommended that CTDOT increase pilotage fees for the Long Island Sound in the amount of 12% over 5 years, consistent with the NY legislation, and increase fees for Connecticut harbors (which are not regulated by New York) in the amount of 12% over 4 years. Following a public comment period, the rate increase recommendation was submitted by CTDOT to the Governor’s office for review on September 24, 2012. On October 4, the New York legislation was signed into law by New York Governor Andrew Cuomo with an effective date of January 1, 2013. On July 23, 2013, the CT Legislative Regulation Review Committee approved the rate change to the pilotage regulations. On August 1, 2013, the proposed pilotage rate increase became effective.

Pilotage Training and Safety Equipment Fund

Part of the pilotage rate increase passed in 2013 was the creation of a pilot training and safety equipment surcharge. A fee of \$20 per pilot boat transit is now collected and held by the Joint Rotation Administrator, to be distributed to the pilots for continuing training and safety equipment expenses on a reimbursable basis. During 2015 approximately \$14,000 was distributed to the pilots (70% to the Connecticut pilots and 30% to the New York pilots) to fund training. The CSP will provide an annual accounting of expenditures from the fund to the Commission.

Fuel Surcharges

Beginning in February, 2006 CTDOT and the NY Board jointly imposed a temporary pilot boat fuel surcharge based on a November 28, 2005 recommendation of the CPC. The intent of the fuel surcharge is to compensate pilot boat operators for substantial increases in the cost of diesel fuel, a major factor in the cost of operating pilot boats. Since its imposition, the fuel surcharge has been periodically reviewed and adjusted by CTDOT and the NY Board on the recommendation of the CPC. The Temporary Pilot Boat Fuel Surcharge formula developed and incorporated into the pilotage rate increase regulation became effective on August 1, 2013. Adjustments to the base pilot boat fuel surcharge (\$200.00) are calculated by the Joint Rotation Administrator and with the permission of the CTDOT Commissioner will be applied every calendar quarter (three month period). The adjustment is automatically determined by calculating the percentage change between the base price per gallon of marine diesel fuel of three dollars and four cents (\$3.04) and the average cost per gallon of marine diesel fuel during the quarter (as reported by the pilot boat operators) and applying the percentage change to the base pilot boat fuel surcharge. The formula is as follows:

$$[(\text{quarterly average price per gallon} - \$3.04)/\$3.04 \times \$200.00] + \$200.00$$

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The formula adjustment was implemented to the Pilot Boat Fuel Surcharge on October 1, 2013 and is recalculated on the first day of January, April, July and October of each year.

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 revenues among the pilots. The joint rotation is administered by Sound Pilots, Inc. (d/b/a Block Island Pilots), selected by agreement of CTDOT and the NY Board. The operation of the joint rotation and the JRA is overseen by a Rotation System Executive Board ("RSEB"), consisting of three pilots from the Connecticut side and three pilots from the New York side of the rotation. Unlike most other jurisdictions, pilots participating in the joint rotation are not compelled to belong to a single business entity. Initially, there had been five separate pilot organizations (Northeast Marine Pilots, Sandy Hook Pilots of New York and New Jersey, Interport, Long Island Sound State Pilots, Connecticut State Marine Pilots) and a couple of non-affiliated individual pilots operating within the joint rotation. In November 2008, the CPC was notified that the Connecticut licensed pilots working on the Connecticut side of the joint rotation had agreed in principle to work together as the Connecticut State Pilots ("CSP"), a registered d/b/a under Interport Pilots, Inc. The coordination among the Connecticut licensed pilots working on the Connecticut side of the joint rotation continued during calendar year 2015. Three organizations currently provide pilot boat services; Interport, Long Island Sound State Pilots and Northeast Marine Pilots.

As of January 2015, Connecticut licensed 9 marine pilots, 2 of whom are concurrently licensed by New York and work on the New York side of the rotation. As a condition of maintaining their Connecticut licenses, all of these pilots must also possess federal licenses endorsed for first-class pilotage. The 7 pilots licensed by Connecticut who participated on the Connecticut side of the joint rotation are allocated 70% of vessel movements subject to the joint rotation pursuant to the terms of the MOA. Pilots licensed by New York participate on the New York side of the joint rotation and are allocated 30% of vessel movements. During 2015 the 7 pilots participating on the Connecticut side of the joint rotation covered 354 of the 506 assignments made by the Joint Administrator during the year (70%). The most assignments handled by a single pilot participating on the Connecticut side of the rotation totaled 105; the least was 21. As in past years, over 90% of the vessel traffic in Long Island Sound was into and out of a Connecticut port.

Boarding Stations

The CPC's mandate specifically includes the provision of advice regarding the designation of pilot boarding and disembarkation stations (CGS 263 sec. 15-13c(e)(9)). During 2004, the CPC issued a comprehensive report recommending that CTDOT designate mandatory pilot stations at Point Judith, Rhode Island and Montauk Point, New York under authority of existing regulations. After reviewing industry comments and consulting with the NY Board and U.S. Coast Guard, the CTDOT issued instructions to Connecticut-licensed pilots dated March 1, 2005 requiring use of the Point Judith and Montauk Point pilot stations. CTDOT's instructions are consistent with the NY Board's requirements for New York-licensed pilots. There were no reported violations of the pilot boarding stations during 2015.

Apprenticeship and Training

Connecticut State Agency Regulations Section 15-15a-17(i) required the Connecticut licensed marine pilots to submit for approval to the CTDOT Commissioner and the CPC a proposed program for the training of new pilots within six months of the effective date of the regulation (09/10/2003). CGS 263 sec. 15-13c(e) charges the CPC to set the requirements for pilot licensure and apprenticeship programs as well as the appropriate number of pilots necessary for the "safe, efficient and proper operation of the pilotage system." For a number of years, CTDOT

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had not solicited applications for new licenses consistent with recommendations of the CPC. In the absence of a recommended new pilot selection and training program from the Connecticut licensed pilots, the CPC drafted regulatory language to establish an Apprentice Selection and Training Program. The Apprentice Selection and Training Program was approved as a regulatory change to State Agency Regulations Section 15-25a-6 through 15-15a-17 on December 21, 2010. In response to a request from the CSP and the CPC, the CTDOT solicited applicants for the CT marine pilot apprentice selection and training program on April 14, 2011. As a result of a public solicitation and selection process, three applicants were admitted to the apprentice training program on February 8, 2012. One of the applicants successfully completed the program and received a limited CT state marine pilot license in July 2012. The remaining two applicants withdrew from the apprentice program during 2013. There were no solicitations for applicants for the Apprentice Selection and Training Program in 2015.

State Licensing Disparities and Extension-of-Route

Differences in licensing requirements between New York and Connecticut was a topic of discussion raised throughout 2015 by the CSP. The CSP continued to claim that the NY Board licensing process for the MOA waters is less stringent than the CTDOT's. The CPC initiated a gap analysis to determine the validity of the claim. Follow-on discussion included proposed changes to the minimum trips required by an apprentice pilot as well as a new concept for an extension of route for pilots already licensed in other parts of the MOA waters. Any changes to the licensing requirements would take a change to both the Connecticut General Statutes and State Agency Regulations.

In December, 2014 the CPC recommended to CTDOT that it seek a legislative change to CGS Chapter 263, Section 15-13, which sets forth certain requirements for licensure. In particular, the CPC recommended that new standards be established for an extension of route for pilots previously licensed by CTDOT. Under current law, the standards for an extension of route are the same as those for original licensure. The CPC's recommendation was the result of two primary considerations. First, the CPC recognized that there is a substantial difference between the *ab initio* training of a new pilot and an extension of route for a previously qualified and experienced pilot which should be reflected in the legislative requirements. Secondly, as a result of substantially reduced vessel traffic in the Long Island Sound, particularly the western Long Island Sound, currently-licensed pilots seeking an extension of route have found it difficult, if not impossible, to comply with the existing requirements. The CPC's December, 2014 recommendation was accepted by the CTDOT as reflected in Raised Bill 6821 ("An Act Concerning Department of Transportation Recommendations") referred to the House Committee on Transportation. On March, 17, 2015 the CPC made an additional recommendation to the CTDOT concerning Raised Bill 6821. Specifically, the CPC recommended that section 15-13 be amended by inserting a new paragraph (b) as follows:

(b) An extension of route for waters of this state for which application is being made by a pilot currently licensed by the commissioner for any part of the Connecticut waters of Long Island Sound and at least one of the ports of New London, New Haven or Bridgeport shall be granted provided the applicant (1) has procured a federal first class pilot's license of unlimited tonnage issued by the United States Coast Guard covering the sections of the waters of this state for which application for an extension of route is being made, and (2) can document that, within the sixty months immediately preceding such application, the applicant has made six round trips through the port or waterway for which application is being made as observing pilot on vessels under enrollment or vessels under register subject to compulsory pilotage under Conn. Gen. Stat. sec. 15-15 and 15-15c during which the applicant does the piloting work under the supervision and authority of a pilot licensed by this state.

In making the recommendation, the CPC carefully considered its mandate to ensure that pilots are adequately qualified to perform pilotage duties while also taking into consideration the

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practical realities imposed by the amount of commercial traffic calling at Connecticut Ports, particularly in the western Long Island Sound.

There were subsequent proposals by the CSP to further amend Raised Bill 6821 to eliminate the sixty month limitation for trips as an observing pilot or to substitute three round trips as pilot-of-record under a federal license. However, the CTDOT Commissioner advised the CPC that he would not seek action on any change to the Connecticut General Statutes or State Agency Regulations pending transfer of administrative oversight of the CPC to the Authority. Accordingly, no action was taken during 2015 on Raised Bill 6821.

Pilotage of Yachts

Rhode Island and New Jersey set a minimum length of 200' for yachts to require a pilot. During 2015, the CPC considered seeking a legislative and/or regulatory change to align Connecticut requirements with the requirements of neighboring states. The CPC will await expected legislative action in New York before addressing this issue.

National Transportation Safety Board Pilot Fatigue Findings

The CPC reviewed an inquiry from the National Transportation Safety Board ("NTSB") addressed to the Governor regarding legislation, regulation and internal practices concerning pilot fatigue mitigation and prevention. The CPC considered existing rotation procedures, federal regulation and regulations of the New York Board and is preparing a draft response for the Authority for consideration.

Investigations of a Marine Incident

The Connecticut General Statutes (CGS 15-15c(g)) assigns the CPC responsibility of conducting a review and investigation of any marine incident or casualty as well as conducting hearings to determine the causes of any such incident. As a result of the investigation, the CPC is to make recommendations on disciplinary measures to the Authority. The CPC is to retain an independent investigator to compile a comprehensive factual record of any marine incident or casualty. However, the CPC has never been provided a budget or contractual authority. By a letter dated July 19, 2013 to the CTDOT Commissioner, the CPC proposed to draft procedures to conduct investigations which might be considered for promulgation by the Department as Regulations pursuant to CGS 263 Sec. 15-15a. Additionally, the CPC requested the CTDOT identify financial resources available within the Department to support an investigation of any marine casualty. More specifically, given the time-sensitive nature of any investigation into a marine casualty, the CPC requested the CTDOT pre-qualify independent investigators who might be retained to assist the CPC meet its statutory obligation. In a November 6, 2013 response to the CPC July 19, 2013, CTDOT Commissioner Redeker applauded the efforts of the CPC towards establishing the investigative process and procedures, but advised that at present there was no budget line available for hiring an investigator. Commissioner Redeker committed to pursuing the establishment "on call" type investigative services list but requested the CPC provide a detailed job description and minimum qualifications to assist in the solicitation. In November, 2015 the Commission completed review of and comments on a draft Investigative Processes for Incidents/Accidents as prepared by Mr. Blume and forwarded this document to CDOT for further consideration.

Recency and Extension-of-Route

A reduction in the number of vessel using Long Island Sound and its ports has created a recency problem for most pilots. In 2011, the CPC, CTDOT and the NY Board evaluated and implemented a course of action that would facilitate the safe transit of the vessels through the Port Jefferson approach and harbor. State licensed pilots can maintain recency by conducting

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and documenting rides on the Bridgeport-Port Jefferson Ferry as well as other commercial vessels that do not require a state licensed pilot. However, maintaining recency is still a problem primarily in the western Long Island Sound. In 2012 the CPC was asked by the CSP to draft a proposal to change the recency requirement. A draft change to the CGS and State Agency Regulations was presented to the CPC by the CSP in October 2014. The draft changes also addressed the "extension-of-route" problem for licensed pilots particularly for Bridgeport Harbor and the western Long Island Sound. (see State Licensing Disparities above.) The CPC drafted proposed language to revise CGS 263 Sec. 15-13 to reduce recency and trip requirements for an extension of route for a pilot holding a current license. No action was taken on any changes to the Regulations in 2015; this issue will await any legislative changes.

With the exception of August, all 2015 CPC meetings were held at 1000 on the third Tuesday of each month at the New Haven Regional Fire Training Academy in New Haven CT. The July and September meetings of the CPC were canceled due to a lack of a quorum. The 2016 CPC Meeting Schedule was approved at the December, 2015 CPC meeting, rotating between the New Haven Regional Fire Training Academy in New Haven and State Pier in New London.

William Gash
Chairman