(iv) * * *

(A) (*1*) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers; or

(*2*) The Administrator has determined pursuant to the criteria in 1310.10 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(B) The quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical.

* * * * *

(g) The term combination ephedrine product means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient. The term ''therapeutically significant quantities'' shall apply if the product formulation (i.e., the qualitative and quantitative composition of active ingredients within the product) is listed in American Pharmaceutical Association (APHA) Handbook of NonPrescription Drugs; Drug Facts and Comparisons (published by Wolters Kluwer Company); or USP DI (published by authority of the United States Pharmacopeial Convention, Inc.); or the product is listed in § 1310.15 as an exempt drug product. For drug products having formulations not found in the above compendiums, the Administrator shall determine, pursuant to a written request as specified in § 1310.14 whether the active medicinal ingredients are present in quantities considered therapeutically significant for purposes of this paragraph.

* * * * *

(n) The term retail distributor means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to drug products containing pseudeophedrine, phenylpropanolamine, or ephedrine are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. For the purposes of this paragraph, sale for personal use means the distribution of below-threshold quantities in a single transaction to an individual for legitimate medical use. Also for the purposes of this paragraph, a grocery store is an entity within Standard Industrial Classification (SIC) code 5411, a general merchandise store is an entity within SIC codes 5300 through 5399 and 5499, and a drug store is an entity within SIC code 5912.

* * * * *

3. Section 1310.02 is amended by revising paragraphs (a)(16) and (a)(21) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(a) * * *

(16) Isosafrole 8704

* * * * *

(21) Hydriodic Acid 6695

* * * * *

4. Section 1310.04 is amended by revising paragraph (a) to read as follows:

§ 1310.04 Maintenance of records.

(a) Every record required to be kept subject to § 1310.03 for a List I chemical, a tableting machine, or an encapsulating machine shall be kept by the regulated person for two years after the date of the transaction.

* * * * *

5. Section 1310.09 is revised to read as follows:

§ 1310.09 Temporary exemption from registration.

Each person required by section 302 of the Act (21 U.S.C. 822) to obtain a registration to distribute, import, or export an combination ephedrine product is temporarily exempted from the registration requirement, provided that the person submits a proper application for registration on or before May 12, 1997. The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in parts 1309, 1310, and 1313 of this chapter remain in full force and effect.

PART 1313—IMPORTATION AND EXPORTATION OF PRECURSORS AND ESSENTIAL CHEMICALS

1. The authority citation for part 1313 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 971.

2. Section 1313.02 is amended by revising paragraphs (d)(1)(iv)(A) and (B), to read as follows:

§ 1313.02 Definitions.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(A)(*1*) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers; or

(*2*) The Administrator has determined pursuant to the criteria in 1310.10 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(B) The quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical.

* * * * *

Dated: January 28, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 97–3086 Filed 2–7–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Parts 404 and 407

RIN 2135–AA08

Seaway Regulations and Rules: Great Lakes Pilotage Rates

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) amends the Seaway Regulations and Rules by increasing Great Lakes Pilotage Rates by: 8% in District 1 (9% in Area 1; 6% in Area 2); 19% in District 2 (0% in Area 4; 31% in Area 5); 6% in District 3 (7% in Area 6; 6% in Area 7; 4% in Area 8); and 11% for mutual rates.

The pilotage rate adjustments contained in this final rule are different from the rates proposed by the SLSDC in the Notice of Proposed Rulemaking published in the Federal Register (61 FR 50258) on September 25, 1996, (the NPRM), because adjustments have been made based on comments received in response to the NPRM. These adjustments are discussed in the section of this rule entitled ''Discussion of Comments and Changes.''

The increase in Great Lakes pilotage rates is necessary because, after review, the SLSDC has determined that, in accordance with 33 CFR 407.1(b), pilot compensation is not meeting pilot compensation targets established in 33 CFR Part 407, Appendix A, Step 2.

EFFECTIVE DATE: This rule becomes effective on March 1, 1997.

FOR FURTHER INFORMATION CONTACT: Scott A. Poyer, Chief Economist, Saint

Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Suite 5424, Washington, DC 20590, 1–800–785–2779, or Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Suite 5424, Washington, D.C. 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 25, 1996, the SLSDC published a NPRM in the Federal Register (61 FR 50258) that proposed new pilotage rates in accordance with the Great Lakes Pilotage Ratemaking Methodology (33 CFR Part 407). The NPRM detailed the calculations involved in determining new pilotage rates and proposed increases in Great Lakes pilotage rates based on the results of these calculations. The NPRM announced a public hearing, which was held on October 22, 1996, in Romulus, MI. The original comment period for the NPRM was scheduled to end on November 12, 1996; however, four commenters requested an extension. In order to allow the public more time to prepare their responses to the proposals contained in the NPRM, the SLSDC published a notice in the Federal Register on November 15, 1996, (61 FR 58496), which extended the NPRM's comment period to November 27, 1996.

Background and Purpose

On December 11, 1995, the Secretary of Transportation transferred responsibility for administration of the Great Lakes Pilotage Act from the Commandant of the U.S. Coast Guard to the Administrator of the SLSDC. This transfer was effected by a final rule published by the U.S. Department of Transportation (DOT) in the Federal Register on December 11, 1995 (60 FR 63444). Among the responsibilities transferred by this final rule was the responsibility for setting Great Lakes pilotage rates. On May 9, 1996, the DOT published a final rule in the Federal Register (61 FR 21081), which was originated and initially drafted when Great Lakes pilotage functions were administered by the U.S. Coast Guard. The final rule made the Department's final changes to the methodology used to set Great Lakes pilotage rates.

The purpose of this rulemaking is to establish pilotage rates under the new Great Lakes Pilotage ratemaking methodology for the first time. This rulemaking also finishes the first full rate review since 1987 and implements the first U.S. rate adjustment since 1992.

Discussion of Comments and Changes

In response to the NPRM a total of 42 written and 13 oral comments were received. Many commenters did not limit themselves to the subject of proposals contained in the NPRM. In fact, nearly all the comments addressed one or more issues that were beyond the scope of this rulemaking. These comments can be divided into two major categories—commenters who wanted a comprehensive study of the entire Great Lakes Pilotage system and commenters who wanted to reopen or redesign the Great Lakes Pilotage Ratemaking Methodology. Twenty-nine commenters representing every facet of the Great Lakes maritime community requested a study or comprehensive review of the pilotage system with the aim of making the Great Lakes pilotage system more efficient. Seventeen commenters requested either specific changes to the Great Lakes Pilotage Ratemaking Methodology or requested a wholesale redesign of the entire methodology.

The SLSDC believes that the Great Lakes needs to maintain a safe, reliable, and efficient pilotage system and a sensible and reliable ratemaking methodology in order to stay competitive in world markets. This final rule can only address comments directly related to the NPRM and its implementation of the ratemaking methodology. However, it is clear that there is a considerable amount of public interest in a comprehensive review of the Great Lakes pilotage system as a whole. In order to give all stakeholders an equal opportunity to comment on this subject, on January 29, 1997, the SLSDC published a notice in the Federal Register (62 FR 4223) that announced a public meeting on the issue. The remainder of the comments discussed in this final rule deal with subjects proposed in the NPRM.

Thirty-four commenters representing agriculture, labor, shipping and port interests objected to the rate increases proposed in the NPRM and nine commenters representing pilotage interests supported the rate increases. Commenters opposed to the rate believed the increases would be detrimental to agriculture, labor, ports or shipping on the Great Lakes. Almost all of these commenters requested a comprehensive review of the Great Lakes pilotage system (as discussed above), before new rates were set. Some of the commenters opposed to the NPRM also requested that the proposed increases either be rejected, delayed, or phased in over as much as a five-year period. The commenters in favor of the rate increases believed the proposed increases were necessary, reasonable and only fair to pilots who had not received a rate increase in many years. The SLSDC has reviewed existing pilotage rates as required by 33 CFR § 407.1(b), and determined that pilot compensation is not meeting pilot compensation targets established in 33 CFR Part 407, Appendix A, Step 2. Therefore, pilotage rates have been adjusted as required by Step 7 of Appendix A to 33 CFR.

Four commenters believe the SLSDC's traffic projections were too low, and that vessel traffic and pilotage hours would increase more than the SLSDC predicted in the NPRM. Commenters requested that projections be reviewed using data updated through at least November 30, 1996. In response to these comments, the SLSDC has reviewed its traffic projections using pilot hour data updated through November 30, 1996. Based on this data, the SLSDC has revised its projection of pilot hours in each District.

In District 1, actual pilot hours through November 30, 1996 were 13.98% above 1995 levels, with December levels increasing. Therefore, the SLSDC has changed its projection to a 16% increase for District 1.

In District 2, actual pilot hours through November 30, 1996 were 11.04% above 1995 levels, with December levels increasing. Therefore, the SLSDC has changed its projection to a 16% increase for District 2.

In District 3, actual pilot hours through November 30, 1996 were 20.41% above 1995 levels, with December levels decreasing slightly. Therefore, the SLSDC has changed its projection to a 20% increase for District 3.

The change in traffic projections has not affected pilotage rates in Districts 1 or 2 as much as District 3 because the change in traffic was not as great. District 3, which in the first three months of the navigation season was approximately 43% below 1995 levels, witnessed a significant surge in vessel traffic. By November 30, 1996, District 3 was approximately 20% ahead of 1995 traffic levels. Under the ratemaking methodology this increase in traffic translated into an increase in the target number of pilots because more pilots are necessary to handle the increased workload. The increase in traffic also decreased pilotage rates because operating costs are spread out over more entities. Virtually all of the change in pilotage rates in District 3 is a result of the change in traffic projections that were requested by commenters from District 3 and elsewhere who correctly alerted the SLSDC that vessel traffic was increasing in District 3. Some of these comments are discussed further below.

Three commenters requested the Director allow 18 pilots in District 3, including three pilots in the St. Mary's River, so that there will be enough pilots to handle the workload and none of the current 18 pilots will be temporarily layed-off or terminated. As detailed above, the SLSDC has revised its traffic projections upward in District 3. Based on this revised projection, pilotage rates have been recalculated based on 23 pilots in District 3 with four of those pilots in the St. Mary's River.

One commenter from the District 3 pilot association questioned whether the pilot hours calculated in the NPRM were correct for District 3 because the SLSDC's data showed pilot hours were down approximately 43% at the beginning of the year, while the commenter was working many hours in excess of 1995. As explained above, the SLSDC has reexamined its projections using data updated through November 1996, which shows that total pilot hours for District 3 had increased. However, further analysis of the data showed that the increase in the pilot hour workload was not spread evenly among all pilots, especially in District 3. Some disparity in workload between pilots should be expected in any district since no two pilots work exactly the same jobs at the same time, and some pilots have administrative responsibilities. Since some pilots work almost exclusively in designated waters where the target is 1000 hours per pilot per season, while other pilots work almost exclusively in undesignated waters where the target is 1800 hours per season, it would be expected that the difference between the pilot with the most hours and the pilot with the least hours would be approximately 800 hours. As shown in Tables A, B and C below, for pilots who worked the entire year in Districts 1 and 2, the disparity between the pilot with the most hours and the pilot with the least hours was close to 800 hours (approximately 500 hours in District 1 and approximately 1000 hours in district 2). As can be seen in the tables, in both districts the pilot workload is divided fairly evenly. However, for pilots who worked the entire year in District 3, the disparity was twice as high (approximately 2,000 hours). Many pilots were significantly over targeted hours, while other pilots were below.

TABLE A.—DISTRICT 1 PILOT HOURS

Pilot	Pilot hours (Jan–Nov)
Hickey	843
Maclean, J	989
Menkes	845
Metzger	1,072
Tetzlaff	860
Maclean, M	1,362
Welch	1,357
Dorr	1,309
Withington	1,265
Difference (Hi/Lo)	519

TABLE B.—DISTRICT 2 PILOT HOURS

Pilot	Pilot hours (Jan–Nov)
Greene	778
Kanaby	1,007
Schnell	920
Waldrop	1,144
Knetchel	1,598
Meyer	1,101
Ell	1,298
Singler	1,348
Coppola	1,924
Loflin	1,269
Coulston	1,428
Difference (Hi/Lo)	1,146

TABLE C.—DISTRICT 3 PILOT HOURS

Pilot	Pilot hours (Jan–Nov)
Opack	1,778
Balanda	2,106
Brown	1,824
Madjiwita	1,884
Sciullo	835
Brennan	2,156
Halverson	963
Ojard	1,988
Derf	784
Aho	1,882
Skorich	1,552
Kolenda	2,491
Harris	1,504
Hayes	2,921
Willecke	911
Radtke	1,226
Difference (Hi/Lo)	2,137

Two commenters believe that pilotage rates should allow for more than the 13 pilots proposed in the NPRM for District 2. As detailed above, the SLSDC has revised its traffic projections upward in District 2. Based on this revised projection, pilotage rates have been recalculated based on 14 pilots in District 2.

The revised traffic projections result in a revision of the target number of pilots for District 1. Pilotage rates have been recalculated based on 11 pilots in District 1.

Two commenters, the president and controller of the District 3 pilots association, believe the way the NPRM proposed to allocate expenses to each area resulted in a 1% overstatement of expenses in favor of District 3, and an inequitable allocation of revenues to Area 7 (the St. Mary's River). The ratemaking methodology does not specify how expenses and revenues will be divided among the areas, only that a separate ratemaking calculation be made for each area (see 33 CFR § 407.10(b)). The NPRM proposed that revenues and expenses be divided among the individual areas based on the number of pilots calculated for each area and that the area totals be added together for the District totals. However, the commenters are correct that in a District with three areas (i.e., District 3), if all fractions over .5 are rounded up, as is the general rule, then it is possible to have total area expenses add up to 101% of the actual expenses for the district. The SLSDC agrees that this situation could upwardly bias pilotage rates in District 3, so the SLSDC has remedied the situation by changing the order of the calculations so that the district totals are done first and then this total is divided among the areas so that the area totals must equal 100% of the District total. The commenters also believe that district totals should not be apportioned to areas within a district based on the number of pilots calculated for that area, but instead should be apportioned to each area based on the actual revenue earned in that area in the previous year. The commenters believe this would lead to a more accurate projection for each area. For Districts 2 and 3, the SLSDC agrees with the commenters and has divided the district by area accordingly. In these districts all revenues and expenses from all areas are pooled together and then divided. So it is more accurate to divide district totals based on the actual division of revenue for each area. However, in District 1 two pools exist, one for Area 1 and one for Area 2. Revenues are accredited separately in each pool and expenses are assigned on a per capita basis. Following this system, in District 1 revenues have been apportioned to each area on the same basis as in Districts 2 and 3, but expenses and other calculations are divided based on the number of pilots in each area. The SLSDC believes this method gives a truer projection of how revenues and expenses are actually divided in each area.

One commenter agrees with the above commenters that district revenues should not be apportioned based on the number of pilots. However, the commenter's suggested solution is to divide total district expenses into fixed and variable portions, adjust the variable portion by projected pilot numbers, and then adjust both the fixed and variable portions for inflation. As discussed in the previous comment above, the SLSDC believes that dividing revenues based on actual revenues earned is a more accurate method, and the SLSDC intends to retain this method for dividing revenues.

Two commenters believe expenses that the independent auditor had recommended be disallowed because these expenses were reimbursed by other entities should not have been disallowed in ratemaking calculations because the expenses in question have already been deducted from association revenues reported as net revenues to the Director. After reviewing association reported revenues, the SLSDC agrees and $113,273 has been added back to the expense base of District 2 and $112,812 has been added back to the expense base of District 3.

One commenter believed that $53,971 should be added to the expense base for District 1 to account for unaudited travel expenses that are not reported in the pilot association's income statement. The SLSDC reviewed the District travel figures with the independent auditing firm that conducted an audit of all three pilot associations. The auditing firm, which had already added $21,624 to the expense base of District 1 for pilot travel and per diem, did not believe additional funds were warranted. As a result, the SLSDC is not changing the independent auditing firm's recommended travel allowance for District 1.

One commenter requested that the District 1 pilots be granted an immediate surcharge for the purpose of purchasing Electronic Chart Display Information Systems (ECDIS) units for all pilots in District 1. The SLSDC believes it is sound policy to evaluate the application of ECDIS technology to Great Lakes pilotage operations before wholesale adoption. Therefore, this requested change is not adopted.

One commenter supports the Director's proposed allowance of funds for the test and evaluation of ECDIS equipment in each pilot association. However, the commenter suggests that the equipment should be leased before the decision is made to purchase. The SLSDC agrees that leasing would be a viable option for test and evaluation of the equipment, and this option will be allowed.

Two commenters believe the expenses for test and evaluation of ECDIS should be amortized as a capital expenditure, rather than as an operational expense. Such a change would have virtually no impact on pilotage rates proposed in the NPRM because the expense is so small relative to the total rate (approximately six tenths of one percent). Therefore the SLSDC does not believe such a change would be worthwhile for this NPRM. If there are large-scale purchases of ECDIS equipment in future years, these expenses would be better candidates for capitalization.

One commenter questioned the use of Internal Revenue Service guidelines for the recognition of expenses and argued that $49,500 in disallowed pilot boat lease expenses and $5,400 in disallowed property lease expenses should be reinstated into the District 2 expense base. The commenter believes that all disallowed expenses should qualify because they are reasonable and necessary for the provision of pilotage service. The SLSDC reviewed these expenses and has decided to accept the opinion of the independent audit firm hired for the purposes of this ratemaking. The independent audit firm believed the disallowed expenses were excessive based on the accepted auditing practice of comparison to expenditures of similar businesses in the same locality, and the SLSDC has left those expenses out of the rate base for District 2.

Two commenters believe that the NPRM did not account for increases in operating expenses (e.g., social security, medicare, etc.) that come with increases in the number of pilots and/or increases in pilotage operations. These commenters are incorrect, the NPRM did take these factors into account and an explanation of how operating expenses were adjusted for these factors was contained in the NPRM (see 61 FR 50261 Step 1.D.).

Three commenters disagreed that master compensation was 1.5 times all salary and benefits as proposed in the NPRM. Commenters provided detailed information, including W–2 tax information, showing that a more accurate approximation of master wages is 1.5 times mate salary, plus mate benefits. One commenter also provided a separate calculation that indicated master compensation should be approximately $106,000. After reviewing the available figures, the SLSDC believes that master salary is closest in comparison to 1.5 times mate salary, plus mate benefits. Using this method, the calculations in this final rule are based on a figure of $92,290 for mate compensation and $131,213 for master compensation (representing $116,767 for salary and $14,446 for benefits).

One commenter believed mate compensation included funds for workmen's compensation, insurance and social security, and these expenses should be disallowed from pilotage district operating costs. The SLSDC disagrees because the figure used by the SLSDC for mate benefits does not include the ascribed items.

One commenter believed that profits from related entities of each pilot association should be counted towards pilot compensation. In effect this is how such profits are counted after deduction for expenses and return on investment.

Five commenters complimented the SLSDC and the Office of Great Lakes Pilotage on the NPRM, believing the SLSDC did a fair and equitable job of applying the ratemaking methodology. One commenter, however, believes the SLSDC applied the ratemaking methodology inconsistently and did not follow the published methodology. The commenter argues that the number of pilots were calculated without regard to federal regulations. The commenter believes the regulations require the Director to include mandatory rest hours when calculating the number of pilots. The SLSDC does not believe the NPRM was inconsistent or contradicted the ratemaking methodology. The federal regulations were followed as per Step 2.A. of Appendix A to part 407 of Title 33, Code of Federal Regulations, which states that the number of pilots will be calculated based on projected bridge hours.

One commenter believes the ratemaking methodology does not require pilotage rates to be set on an area by area basis. The commenter suggests that rates be set by district and divided evenly among areas within each district. The SLSDC believes the method proposed by the commenter is contradictory to the requirements of the ratemaking methodology (*see* 33 CFR § 407.10(b) and Part 407, Appendix A, Step 7). The suggested change is not adopted.

One commenter believes that the proposed increase in rates would have a substantial impact on a significant number of small entities. However, the commenter only mentions twelve small entities that might be affected, with no details on how much these entities could be effected. Lacking any evidence to the contrary, the SLSDC disagrees that the proposed increases would have a substantial impact on a significant number of small entities.

One commenter believes the Director should set pilotage rates separate from the calculations detailed in the Great Lakes pilotage ratemaking methodology in order to arrive at a more fair and equitable rate. The SLSDC disagrees that the rate calculations are unfair or unreasonable and both this final rule and the Great Lakes Pilotage Ratemaking Methodology have been established by public rulemaking, with ample opportunity for public input. The ratemaking methodology was the subject of a separate rulemaking which took several years to develop and involved extensive public comment. The final changes to the Great Lakes Pilotage Ratemaking Methodology were published as a final rule in the Federal Register on May 9, 1996, (61 FR 21081). The time for commenting on the methodology is long expired. This rulemaking serves to implement the methodology, not reopen the methodology for comment and change.

Rate Calculations

Based on the changes discussed above, the step-by-step calculations for each pilotage area are summarized in the following tables:

TABLE D

	Total District 1	Area 1, St. Lawrence River	Area 2, Lake Ontario
Step 1: Projection of operating expenses	$354,561	$226,919	$127,642
Step 2: Projection of target pilot compensation	$1,287,651	$918,491	$369,160
Step 3: Projection of revenue	$1,532,401	$1,057,356	$475,045
Step 4: Calculation of investment base	$232,890	$149,050	$83,840
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%
Step 6: Adjustment determination	$1,660,191	$1,156,917	$503,274
Step 7: Adjustment of pilotage rates	1.08	1.09	1.06

TABLE E

	Total District 2	Area 4 Lake Erie	Area 5, South East Shoal to Port Huron, MI
Step 1: Projection of operating expenses	$1,148,410	$447,880	$700,530
Step 2: Projection of target pilot compensation	$1,642,367	$461,450	$1,180,917
Step 3: Projection of revenue	$2,371,548	$924,904	$1,446,644
Step 4: Calculation of investment base	$265,488	$103,540	$161,948
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%
Step 6: Adjustment determination	$2,821,272	$921,223	$1,900,049
Step 7: Adjustment of pilotage rates	1.19	1.00	1.31

TABLE F

	Total District 3	Area 6, Lakes Huron and Michigan	Area 7, St. Mary's River	Area 8, Lake Superior
Step 1: Projection of operating expenses	$1,159,099	$602,731	$266,593	$289,775
Step 2: Projection of target pilot compensation	$2,278,362	$1,199,770	$524,852	$553,740
Step 3: Projection of revenue	$3,262,301	$1,696,396	$750,329	$815,576
Step 4: Calculation of investment base	$119,823	$62,308	$27,559	$29,956
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%	7.72%
Step 6: Adjustment determination	$3,446,711	$1,807,311	$793,572	$845,828
Step 7: Adjustment of pilotage rates	1.06	1.07	1.06	1.04

As summarized in the tables A, B and C above, the SLSDC amends the pilotage rates found in 33 CFR §§ 404.405–410 by increasing pilotage rates: 9% in Area 1; 6% in Area 2; 0% in Area 4; 31% in Area 5; 7% in Area 6; 6% in Area 7; and 4% in Area 8. For the pilotage rates in 33 CFR §§ 404.420, 404.425 and 404.428, which are paid in all pilotage areas, the SLSDC amends those sections by increasing these rates 11%, which is the aggregate increase for the pilotage rate increase in all areas.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply. The Great Lakes Pilotage Act (46 U.S.C. § 9305) provides that the Secretary may make agreements with the appropriate agency of Canada to prescribe joint or identical pilotage rates and charges. The Secretary of Transportation and the Minister of Transport of Canada have signed a Memorandum of Agreement concerning Great Lakes Pilotage dated January 18, 1977, section 7 of which provides that the Secretary and the Minister will provide for the establishment of identical rates, charges and any other conditions or terms. The terms of this rulemaking have been discussed with the cognizant agency of Canada, the Great Lakes Pilotage Authority, which has voiced no objections.

This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is considered to be substantive but nonsignificant under those procedures. All previous pilotage rate rulemakings have been considered nonsignificant except for the interim pilotage rate adjustment of June 5, 1992, (57 FR 23955). This interim adjustment was necessary because a new rate methodology was being designed and was significant because the interim rate adjustment was put in before the methodology was completed. The rate methodology has now been completed and 33 CFR § 407.1(b) requires that pilotage rates be reviewed annually.

The economic impact of this rulemaking is expected to be minimal so that a full economic evaluation is not warranted. Fees for Great Lakes registered pilotage service are paid almost exclusively by foreign vessels. Therefore, the effect of the proposed increase in Great Lakes pilotage rates will be borne almost exclusively by foreign vessels operators, not U.S. entities.

Regulatory Flexibility Act Determination

The SLSDC certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. In addition, this rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment. The number of small entities that the SLSDC believes will be directly affected by this rule are three U.S. pilot associations. The pilot associations will be positively affected by this rulemaking, and as discussed above under ''Regulatory Evaluation,'' the SLSDC expects the impact of this proposed rule to be minimal for other small entities. Since the vast majority of pilotage fees are paid by foreign vessels, any resulting costs will be borne almost exclusively by foreign vessel operators. The alternative of not increasing pilotage rates would have a negative impact on the three small entity U.S. pilot associations.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Corporation has analyzed this proposal under the principles and criteria in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Parts 404 and 407

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For reasons set out in the preamble, the SLSDC amends Part 404 and 407 of Title 33 of the Code of Federal Regulations as follows:

PART 404—[AMENDED]

1. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.52. 33 CFR 404.105 also is issued under the authority of 44 U.S.C. 3507.

2. Section 404.400 (a) and (c) are revised to read as follows:

§ 404.400 Calculation of pilotage units and determination of weighting factor.

* * * * *

(a) Pilotage unit computation:

Pilot Unit=(Length×Breadth×Depth)/283.17 (measured in meters)

Pilot Unit=(Length×Breadth×Depth)/10,000 (measured in feet)

* * * * *

(c) The charge for pilotage service is obtained by multiplying the weighting factor, obtained from paragraph (b) of this section by the appropriate basic rate specified in §§ 404.405, 404.407, 404.410, 404.420 and 404.425.

3. Section 404.405 is revised to read as follows:

§ 404.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots in the St. Lawrence River and Lake Ontario.

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$8 per Kilometer or $13 per Mile.[1]
Each Lock Transited	$171.[1]
Harbor Movage	$562.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $374 and the maximum basic rate for a through trip is $1,643.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six Hour Period	$294
Docking/Undocking	$280

4. Section 404.407 is added to read as follows:

§ 404.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of South-east Shoal)	Buffalo
Six Hour Period	$322	$322
Docking/Undocking	248	248
Any Point on the Niagara River below the Black Rock Lock	N/A	633

(b) Area 5 (Designated Waters):

Any point on/in	Southeast Shoal	Toledo or any port on Lake Erie west of Southeast Shoal	Detroit river	Detroit pilot boat	St. Clair river
Toledo or any port on Lake Erie west of South-east Shoal	$988	$583	$1,282	$988	N/A
Port Huron Change Point	[1]1,720	[1]1,993	1,293	1,005	$715
St. Clair River	[1]1,7201	N/A	1,293	1,293	583
Detroit or Windsor or the Detroit River	988	1,282	583	N/A	1,293
Detroit pilot boat	715	988	N/A	N/A	1,293

[1] When pilots are not changed at the Detroit Pilot Boat.

5. Section 404.410 is revised to read as follows:

§ 404.410 Basic rates and charges on Lakes Huron, Michigan and Superior and the St. Mary's River.

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots on Lakes Huron, Michigan, and Superior and the St. Mary's River.

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six Hour Period	$269
Docking/Undocking	256

(b) Area 7 (Designated Waters):

Area	Detour	Gros Cap	Any Harbor
Gros Cap	$1,317	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	1,317	$496	N/A
Any point in Sault Ste. Marie, Ontario except the Algoma Steel Corporation Wharf	1,105	496	N/A
Sault Ste. Marie, Michigan	1,105	496	N/A
Harbor Movage	N/A	N/A	$496

(c) Area 8 (Undesignated Waters):

Service	Lakes Superior
Six Hour Period	$261
Docking/Undocking	249

6. Section 404.420 is revised to read as follows:

§ 404.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this section, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $51 for each hour or part of an hour during which each interruption or detention lasts with a maximum basic rate of $807 for each continuous 24-hour period during which the interruption or detention continues. There is no charge for an interruption or detention caused by ice, weather or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge may be made for an interruption or detention if the total interruption or detention ends during the 6-hour period for which a charge has been made under §§ 404.405 through 404.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $51 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $807 for each continuous 24-hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $305;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $51 for each hour or part of an hour including the first hour, with a maximum basic rate of $807 for each 24-hour period.

§ 404.425 [Amended]

7. Section 404.425 is amended by revising the term ''§§ 404.405, 404.410, and 404.420'' to read ''§§ 404.405, 404.407, 404.410 and 404.420''.

8. Section 404.428 is revised to read as follows:

§ 404.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point, the ship shall pay at the rate of $312 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for these services. The change points to which this section applies are designated in § 404.450.

PART 407—[AMENDED]

9. The authority citation for Part 407 continues to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

10. Appendix A to Part 407, Step 1.C. and Step 5(2) are revised to read as follows:

Appendix A to Part 407—Ratemaking Analyses and Methodology

* * * * *

Step 1.C.—Adjustment for Inflation or Deflation

(1) In making projections of future expenses, expenses that are subject to inflationary or deflationary pressures are adjusted. Costs not subject to inflation or deflation are not adjusted. Annual cost inflation or deflation rates will be projected to the succeeding navigation season, reflecting the gradual increase or decrease in costs throughout the year. The inflation adjustment will be based on the preceding year's change in the Consumer Price Index for the North Central Region of the United States.

* * * * *

Step 5: Determination of Target Rate of Return on Investment

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(2) The allowed Return on Investment (ROI) is based on the preceding year's average annual rate of return for new issues of high grade corporate securities.

* * * * *

Issued at Washington, D.C. on February 4, 1997.

Saint Lawrence Seaway Development Corporation

Gail C. McDonald,

Administrator.

[FR Doc. 97–3176 Filed 2–7–97; 8:45 am]

BILLING CODE 4910–61–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 95–117; FCC 96–425]

Satellite Application and Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules and policies to streamline application and licensing requirements for satellite space and earth stations under the Commission's rules regarding satellite communications. Among other things, the Commission waives the construction permit requirement for satellite space stations and modifies the license term for temporary fixed earth stations and the implementation period for Very Small Aperture Terminal (''VSAT'') earth stations. The Report and Order amends minor modifications for earth station and inclined orbit operations of space stations, and application and licensing forms.

EFFECTIVE DATE: The adopted rule changes will become effective upon approval by the Office of Management and Budget of the modified information collection requirements, but no sooner than April 11, 1997. When approval is received, the Federal Communications Commission will publish a document announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Tracey Weisler, International Bureau, Satellite Policy Branch, (202) 418–0744; Frank Peace, International Bureau, Satellite Engineering Branch, (202) 418–0730; Kathleen Campbell, International Bureau, Satellite Policy Branch (202) 418–0753. For additional information concerning the information collection contained in this NPRM contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 95–117; FCC 96–425, adopted October 29, 1996 and released December 16, 1996. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W. Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

This Report and Order contains modifications to approved collections and will be submitted to the Office of Management and Budget for review under Section 3507(d) of the Paperwork Reduction Act (44 U.S.C. 3507(d)). For copies of the submissions contact Dorothy Conway at (202) 418–0217 or access our fax on demand system at 202–418–0177 from the handset on your fax machine and using the document retrieval number 6000000. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Division, Room 234, Paperwork Reduction Project, Washington, D.C. 20554. For further information contact Judy Boley, (202) 418–0210.

Title: Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures.

Form No.: FCC Form 312.

Type of Review: Revision of existing collections.

Respondents: Businesses or other for profit, including small businesses.

Number of Respondents: 1,275.

Estimated Time Per Response: The Commission estimates all respondents will hire an attorney or legal assistant to complete the form. The time to retain these services is 2 hours per respondent.

Total Annual Burden: 2,550 hours.

Estimated Costs Per Respondent: This includes the charges for hiring an attorney, legal assistant, or engineer at $150 an hour to complete the submissions. The estimated average time to complete the Form 312 is 10 hours per response. The estimated average time to complete space station submissions is 20 hours per response. The estimated average time to complete the ASIA submission is 24 hours per response. Earth station submissions: $1935. ($1500 for Form 312; $375 remainder of application; $60 for outside hire.) Space station submissions: $4560 ($1500 for Form 312; $3000 for remainder of submission; $60 for outside hire). ASIA submissions: $3,660 ($3,600 for submission; $60 for outside hire). Fee amounts vary by type of service and application. Total fee estimates for industry: $4,956,255.00. Needs and Uses: In accordance with the Communications Act, the information collected will be used by the Commission in evaluating applications requesting authority to operate pursuant to Part 25 of the Commission's rules. The information will be used to determine the legal, technical, and financial ability of the applicants and will assist the Commission in determining whether grant of such authorizations are in the public interest.

Summary of Report and Order

1. In light of the evolving satellite technology, the Commission commenced a review of its operations in order to eliminate outdated regulations and unnecessary burdens that impede the introduction of satellite services to the public and the efficient processing of satellite applications and licenses. As a result of this review, the Commission created the International Bureau. Soon after its creation, the new International Bureau held a roundtable discussion in February 1995 with representatives of industry and members of the public to solicit suggestions on ways to improve satellite application and licensing policies and procedures. Many of the recommendations made during that roundtable discussion were incorporated in Notice of Proposed Rulemaking to streamline satellite licensing procedures. Notice of Proposed Rulemaking, 60 FR 46252, September 9, 1995.

2. The Report and Order amends or eliminates existing requirements, and codifies in Part 25 of the Commission's rules, various technical and procedural policies and guidelines that have not yet been specifically codified. Among other things, the Commission waives the construction permit requirement for