accounting procedures not addressed in the Report? If so, please elaborate.

3. If a simplified approach should not be used, what approach should be used and why?

Section 3 of the Report (at 25–29) addresses difficulties with identifying and valuing assets and liabilities of the CPF, noting, for example, that efforts to determine each asset's theoretical enterprise origin and usage could be a significant undertaking that, in any event, might yield less than satisfactory results. *Id.* at 26. Treasury suggests four potential methods to attempt to assign assets to the theoretical competitive enterprise. *Id.* at 26–27. It notes that one of its methods is similar to the approach in section 2011(e)(5)(B). *Id.* at 27. Treasury observes that the PAEA does not contain a similar test for assigning liabilities. *Id.* at 29. Recognizing the significant tax implications raised by the various methods, Treasury suggests that ''[a] possible approach to simplifying the assumed tax calculation to maximize net income after taxes and still meet the PAEA 'shall be the greater of' total assets CPF quantification test, is to use the theoretical [Postal Service] Competitive enterprise income before taxes and apply an appropriate, set effective tax rate.'' *Id.*

Lastly, Treasury indicates that the CPF should be subject to a reasonable level of management and reporting oversight and, further that the reporting should be subject to independent review to ensure that it is fairly stated in all material respects. *Id.*

1. Does the PAEA allow a simplified approach to assigning assets to the competitive products fund for financial disclosure purposes and/or calculating an assumed Federal income tax?

2. If a simplified approach is allowed, should it be used?

3. Section 3 of the Report notes that the PAEA does not define assets, but that the PAEA's requirement to pay principal or interest on obligations issued for the provision of competitive products in section 2011(e)(5) supports the conclusion that it is permissible to define assets as net assets. The Commission asks commenters to address whether or not this is a reasonable assumption.

4. Does the PAEA require an assignment of liabilities to the CPF? If so, on what basis should they be assigned?

5. Should a full set of financial statements, including income statement, balance sheet and statement of cash flow, be prepared for the CPF?

6. What level of oversight should apply to the CPF?

7. What accounting principles should apply to the CPF?

8. What level of independent review of the Postal Service's CPF accounting and financial statements is sufficient and necessary under the PAEA?

9. What type (public or private) of entity would be best suited to perform that independent review?

10. Is there any information, not required to be reported under the PAEA, which should be included in the reports required under section 2011(h)(2)(B)(i)(III)?

V. Public Representative

Section 505 of title 39 requires the designation of an officer of the Commission in all public proceedings to represent the interests of the general public. The Commission hereby designates Patricia A. Gallagher to serve as the Public Representative, representing the interests of the general public. Pursuant to this designation, she will direct the activities of Commission personnel assigned to assist her and, will, upon request, provide their names for the record. Neither Patricia A. Gallagher nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

VI. Ordering Paragraphs

It is Ordered:

1. As set forth in the body of this notice, Docket No. PI2008–2 is established for the purpose of receiving comments regarding Treasury's Report and recommendations as well as questions posed by the Commission in response to the Report.

2. Interested persons may submit comments no later than 60 days from the date of publication of this notice in the **Federal Register**.

3. Reply comments also may be filed no later than 90 days from the date of publication of this notice in the **Federal Register**.

4. Patricia A. Gallagher is designated as the Public Representative representing the interests of the general public in this proceeding.

5. The Secretary shall cause this notice to be published in the **Federal Register**.

By the Commission.

Dated: January 28, 2008.

Steven W. Williams,

Secretary.

[FR Doc. E8–1893 Filed 1–31–08; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2007–0039]

RIN 1625–AB23

2008 Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to update the rates for pilotage on the Great Lakes. Based on our review, we propose to adjust the pilotage rates an average of 8.17% for the 2008 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment. We also are proposing a clarification of the duty of pilots and pilot associations to cooperate with lawful authority. This rulemaking promotes the Coast Guard strategic goal of maritime safety.

DATES: Comments and related material must reach the Docket Management Facility on or before March 3, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2007–0039 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. Michael Sakaio, Program Analyst, Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1538, by fax 202–372–1929, or by e-mail at *Michael.Sakaio@uscg.mil.* For questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2007–0039), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. For example, we may ask you to resubmit your comment if we are not able to read your original submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time and click on ''Search for Dockets,'' and enter the docket number for this rulemaking (USCG–2007–0039) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Public Meeting

We do not plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

D. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

II. Program History

This notice of proposed rulemaking (NPRM) is issued pursuant to Coast Guard regulations in 46 CFR Chapter III, Parts 401–404. Those regulations implement the Great Lakes Pilotage Act of 1960, 46 U.S.C. Chapter 93, which requires foreign-flag vessels and U.S.-flag vessels in foreign trade to use federally registered Great Lakes pilots while transiting the St. Lawrence Seaway and the Great Lakes system, and which requires the Secretary of Homeland Security to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' 46 U.S.C. 9303(f).

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage Districts. Pilotage in each District is provided by an association certified by the Director of Great Lakes Pilotage to operate a pilotage pool. It is important to note that, while the Coast Guard sets rates, it does not control the actual compensation that pilots receive. This is determined by each of the three District associations, which use different compensation practices.

District One, consisting of Areas 1 and 2, includes all U.S. waters of the St. Lawrence River and Lake Ontario. District Two, consisting of Areas 4 and 5, includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three, consisting of Areas 6, 7, and 8, includes all U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority and, accordingly, is not included in the U.S. rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Great Lakes Pilotage Act of 1960, to be waters in which pilots must at all times be fully engaged in the navigation of vessels in their charge. These waters were ''designated'' because they are difficult waters to navigate. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. Under the Great Lakes Pilotage Act of 1960, pilots assigned to vessels in these areas are only required to ''be on board and available to direct the navigation of a vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(A) and (B).

The Coast Guard pilotage regulations require annual reviews of pilotage rates and the setting of new rates at least once every five years, or sooner, if annual reviews show a need. 46 CFR 404.1. To assist in calculating pilotage rates, the pilotage associations are required to submit to the Coast Guard annual financial statements prepared by certified public accounting firms. In addition, every fifth year, in connection with the mandatory rate adjustment, the Coast Guard contracts with an independent accounting firm to conduct a full audit of the accounts and records of the pilotage associations and prepare and submit financial reports relevant to the ratemaking process. In those years when a full ratemaking is conducted, the Coast Guard generates the pilotage rates using Appendix A to 46 CFR Part 404. Between the five-year full ratemaking intervals, the Coast Guard annually reviews the pilotage rates using Appendix C to Part 404, and adjusts rates when deemed appropriate. Terms and formulas used in Appendix A and Appendix C are defined in Appendix B to Part 404.

The last full ratemaking using the Appendix A methodology was concluded on April 3, 2006 (71 FR 16501). Rates for the 2007 shipping season were adjusted based on an Appendix C review (interim rule, 72 FR 8115, Feb. 23, 2007; final rule, 72 FR 53158, Sep. 18, 2007). The present rulemaking proposes rate adjustments for the 2008 shipping season, based once again on an Appendix C review.

III. Purpose of the Proposed Rule

The pilotage regulations require that pilotage rates be reviewed annually. If the annual review shows that pilotage rates are within a reasonable range of the base target pilot compensation set in the previous ratemaking, no adjustment to the rates will be initiated. However, if the annual review indicates that an adjustment is necessary, then the Coast Guard will establish new pilotage rates pursuant to 46 CFR 404.10 and applying either Appendix A or Appendix C.

A. Proposed Pilotage Rate Changes—Summarized

The Appendix C ratemaking methodology is intended for use during the years between Appendix A full ratemaking reviews and adjustments. This section summarizes the rate changes proposed for 2008, and then discusses in detail how the proposed changes were calculated under Appendix C. We are proposing an average increase of 8.17 percent across all Districts over the last pilotage rate adjustment. Table 1 summarizes the rate increases proposed for each Area.

TABLE 1.—2008 AREA RATE CHANGES

If pilotage service is required in:	Then the percentage increases over the current rate is:
Area 1 (Designated waters)	7.78
Area 2 (Undesignated waters)	8.41
Area 4 (Undesignated waters)	8.50
Area 5 (Designated waters)	7.98
Area 6 (Undesignated waters)	8.37
Area 7 (Designated waters)	7.83
Area 8 (Undesignated waters)	8.31

Rates for ''Cancellation, delay or interruption in rendering services (§ 401.420)'' and ''Basic rates and charges for carrying a U.S. pilot beyond [the] normal change point, or for boarding at other than the normal boarding point (§ 401.428)'' have been increased by 8.17 percent. These changes are the same in every Area.

B. Calculating the Rate Adjustment

The Appendix C ratemaking calculation involves eight steps:

Step 1: Calculate the total economic costs for the base period (*i.e.* pilot compensation expense plus all other recognized expenses plus the return element) and divide by the total bridge hours used in setting the base period rates;

Step 2: Calculate the ''expense multiplier,'' the ratio of other expenses and the return element to pilot compensation for the base period;

Step 3: Calculate an annual ''projection of target pilot compensation'' using the same procedures found in Step 2 of Appendix A;

Step 4: Increase the projected pilot compensation in Step 3 by the expense multiplier in Step 2;

Step 5: Adjust the result in Step 4, as required, for inflation or deflation;

Step 6: Divide the result in Step 5 by projected bridge hours to determine total unit costs;

Step 7: Divide prospective unit costs in Step 6 by the base period unit costs in Step 1; and

Step 8: Adjust the base period rates by the percentage changes in unit cost in Step 7.

The base data used to calculate each of the eight steps comes from the 2007 Appendix C review. The Coast Guard also used the most recent union contracts between the American Maritime Officers' (AMO) union and vessel owners and operators on the Great Lakes to determine target pilot compensation. Bridge hour projections for the 2008 season have been obtained from historical data, pilots, and industry. Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service. All documents and records used in this rate calculation have been placed in the public docket for this rulemaking and are available for review at the addresses listed under **ADDRESSES**.

Some values may not total exactly due to format rounding for presentation in charts and explanations in this section. The rounding does not affect the integrity or truncate the real value of all calculations in the ratemaking methodology described below.

Step 1: Calculate the total economic cost for the base period. In this step, for each Area, we add the total cost of target pilot compensation, all other recognized expenses, and the return element (net income plus interest). We divide this sum by the total bridge hours for each Area. The result is the cost in each Area of providing pilotage service per bridge hour. Tables 2 through 4 summarize the Step 1 calculations:

TABLE 2.—TOTAL ECONOMIC COST FOR BASE PERIOD, DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Base operating expense	$431,313	$436,283	$867,596
Base target pilot compensation	+$1,368,253	+$825,760	+2,194,013
Base return element	+$8,802	+$13,493	+$22,295
Subtotal	=$1,808,368	=$1,275,536	=$3,083,904
Base bridge hours	÷5,661	÷7,993	÷13,654
Base cost per bridge hour	=$319.44	=$159.58	=$225.86

TABLE 3.—TOTAL ECONOMIC COST FOR BASE PERIOD, DISTRICT TWO

	Area 4 Lake Erie	Area Southeast Shoal to Port Huron, MI	Total District Two
Base operating expense	$499,328	$737,052	$1,236,380
Base target pilot compensation	+$825,760	+$1,596,295	+$2,422,055
Base return element	+$26,280	+$30,711	+$56,991
Subtotal	=$1,351,368	=$2,364,058	=$3,715,426
Base bridge hours	÷8,490	÷6,395	÷14,885
Base cost per bridge hour	=$159.17	=$369.67	=$249.61

TABLE 4.—TOTAL ECONOMIC COST FOR BASE PERIOD, DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Base operating expense	$810,612	$319,193	$511,262	$1,641,067
Base target pilot compensation	+$1,651,520	+$912,168	+$1,156,064	+$3,719,752
Base return element	+$33,776	+$9,872	+$15,812	+$59,460
Subtotal	=$2,495,908	=$1,241,233	=$1,683,138	=$5,420,279
Base bridge hours	÷18,000	÷3,863	÷11,390	÷33,253
Base cost per bridge hour	=$138.66	=$321.50	=$147.77	=$163.00

Step 2. Calculate the expense multiplier. In this step, for each Area, we add the base operating expense and the base return element. Then we divide the sum by the base target pilot compensation to get the expense multiplier for each Area. The expense multiplier expresses, in percentage form, the relationship between all non-pilot compensation, all expenses, and pilot compensation for the base period. Tables 5 through 7 show the Step 2 calculations.

TABLE 5.—EXPENSE MULTIPLIER, DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Base operating expense	$431,313	$436,283	$867,596
Base return element	+$8,802	+$13,493	+$22,295
Subtotal	=$440,115	=$449,776	=$889,891
Base target pilot compensation	÷$1,368,253	÷$825,760	÷$2,194,013
Expense multiplier	=.32166	=.54468	=.40560

TABLE 6.—EXPENSE MULTIPLIER, DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Base operating expense	$499,328	$737,052	$1,236,380
Base return element	+$26,280	+$30,711	+$56,991

TABLE 6.—EXPENSE MULTIPLIER, DISTRICT TWO—Continued

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Subtotal	=$525,608	=$767,763	=$1,293,371
Base target pilot compensation	÷$825,760	÷$1,596,295	÷$2,422,055
Expense multiplier	=.63651	=.48097	=.53400

TABLE 7.—EXPENSE MULTIPLIER, DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Base operating expense	$810,612	$319,193	$511,262	$1,641,067
Base return element	+$33,776	+$9,872	+$15,812	+$59,460
Subtotal	=$844,388	=$329,065	=$527,074	=$1,701,247
Base target pilot compensation	÷$1,651,520	÷$912,168	÷$1,156,064	÷$3,719,752
Expense multiplier	=.51128	=.36075	=.45592	=.45716

Step 3. Calculate annual projection of target pilot compensation. In this step, which duplicates Step 2 from Appendix A, we determine the new target rate of compensation and the new number of pilots needed in each pilotage Area, in order to determine the new target pilot compensation for each Area.

a. Determine new target rate of compensation. Target pilot compensation for pilots is based on the average annual compensation of first mates and masters on U.S. Great Lakes vessels. Compensation includes wages and benefits. For pilots in undesignated waters, we approximate the first mates' compensation, and in designated waters we approximate the masters' compensation (first mates' wages multiplied by 150% plus benefits). To determine first mates' and masters' average annual compensation, we use data from the most recent AMO union contracts with the U.S. companies engaged in Great Lakes shipping. Where different AMO union agreements apply to different companies, we apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement.

Our research for the 2007 ratemaking showed six companies operating under contract with the AMO union. Three of the six operated under one set of agreements and the other three operated under modified agreements. Since the 2007 ratemaking, one of the six companies has gone out of business, and a second no longer operates under an AMO union contract.

On August 16, 2007, the Coast Guard received two new sets of agreements that updated wage and benefit information for the four companies now operating under AMO union contracts. The agreements involved a 5% wage rate increase effective August 1, 2006 and a 3% increase effective August 1, 2007. Under one set of agreements (''Agreement A''), the daily wage rate increased from $226.96 to $245.46, while under the other set of agreements (''Agreement B'') the daily wage rate was raised from $279.55 to $302.33.

To calculate monthly wages, we apply the new Agreement A and Agreement B monthly multiplier of 49.5 to the daily rate. The new monthly multiplier is decreased from the multiplier of 54 that was contained in the 2003 contracts. It represents 30.5 average working days per month, 16 vacation days, and 3 bonus days. To calculate average annual compensation, we multiply monthly figures by 9 months, the length of the Great Lakes shipping season.

Table 8 shows new wage calculations based on Agreements A and B.

TABLE 8.—WAGES

Monthly component	Pilots on undesignated waters	Pilots on designated waters (undesignated × 150%)
AGREEMENT A:		
$245.46 daily rate × 49.5 days	$12,150	$18,225
AGREEMENT A:		
Monthly total × 9 months = total wages	109,352	164,029
AGREEMENT B:		
$302.33 daily rate × 49.5 days	14,965	22,488
AGREEMENT B:		
Monthly total × 9 months = total wages	134,688	202,032

Benefits under Agreements A and B include a health contribution rate of $66.69 per man-day and a pension plan contribution rate of $33.35 per man-day under Agreement A, and $43.55 per man-day under Agreement B. The AMO 401K employer matching rate remained at 5% of the wage rate. A clerical contribution included in the 2003 contracts was eliminated. Per the AMO union, the multiplier used to calculate monthly benefits is 45.5 days.

TABLE 9.—BENEFITS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$607.51	$911.27
Pension = $33.35 × 45.5 days	$1,517.43	$1,517.43
Health = $66.69 × 45.5 days	$3,034.40	$3,034.40
AGREEMENT B:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$748.27	$1,122.40
Pension = $43.55 × 45.5 days	1,981.53	1,981.53
Health = $66.69 × 45.5 days	$3,034.40	$3,034.40
AGREEMENT A:		
Monthly total benefits	=$5,159.33	=$5,463.09
AGREEMENT A:		
Monthly total benefits × 9 months	=$46,434	=$49,168
AGREEMENT B:		
Monthly total benefits	=$5,764.19	=$6,138.32
AGREEMENT B:		
Monthly total benefits × 9 months	=$51,878	=$55,245

Table 10 totals the wages and benefits under each agreement.

TABLE 10.—TOTAL WAGES AND BENEFITS UNDER EACH AGREEMENT

	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A: Wages	$109,352	$164,029
AGREEMENT A: Benefits	+$46,434	+$49,168
AGREEMENT A: Total	=$155,786	=$213,196
AGREEMENT B: Wages	$134,688	$202,032
AGREEMENT B: Benefits	+$51,878	+$55,245
AGREEMENT B: Total	=$186,566	=$257,277

Table 11 shows that, for the four U.S. Great Lakes shipping companies currently operating under AMO union contracts, approximately 29% of their total deadweight tonnage belongs to companies operating under Agreement A, and approximately 71% belongs to companies operating under Agreement B.

TABLE 11.—DEADWEIGHT TONNAGE BY AMO UNION AGREEMENT

Company	Agreement A	Agreement B
American Steamship Company	....	664,215
Mittal Steel USA, Inc.	....	96,544
HMC Ship Management	12,656	....
Key Lakes, Inc.	303,145	....
Total tonnage, each agreement	315,801	760,759
Percent tonnage, each agreement	315,801 ÷1,076,560 =29.3343%	760,759 ÷ 1,076,560 =70.6657%

Table 12 applies the percentage of tonnage represented by each agreement to the wages and benefits provided by each agreement, to determine the projected target rate of compensation on a tonnage-weighted basis.

TABLE 12.—PROJECTED TARGET RATE OF COMPENSATION

	Undesignated waters	Designated waters
AGREEMENT A: Total wages and benefits × percent tonnage	$155,786 × 29.3343% = $45,699	$213,196 × 29.3343% = $62,540
AGREEMENT B: Total wages and benefits × percent tonnage	$186,566 × 70.6657% = $131,838	$257,277 × 70.6657% = $181,807

TABLE 12.—PROJECTED TARGET RATE OF COMPENSATION—Continued

	Undesignated waters	Designated waters
Total weighted average wages and benefits = projected target rate of compensation	$45,699 + $131,838 = $177,537	$62,540 + $181,807 = $244,346

b. Determine number of pilots needed. Subject to adjustment by the Director of Great Lakes Pilotage to ensure uninterrupted service, we determine the number of pilots needed in each Area by dividing each Area's projected bridge hours, either by 1,000 (designated waters) or by 1,800 (undesignated waters).

Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. Based on historical data and information provided by pilots and industry, the Coast Guard projects that traffic for the 2008 navigation season will remain the same as it did in 2007.

Table 13 shows the projected bridge hours needed for each Area, and the total number of pilots needed after dividing those figures either by 1,000 or 1,800 and rounding up to the next whole pilot:

TABLE 13.—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2008 bridge hours	Divided by 1,000 (designated waters) or 1,800 (undesignated waters)	Pilots needed (total = 44)
Area 1	5,661	1,000	6
Area 2	7,993	1,800	5
Area 4	8,490	1,800	5
Area 5	6,395	1,000	7
Area 6	18,000	1,800	10
Area 7	3,863	1,000	4
Area 8	11,390	1,800	7

c. Determine the projected target pilot compensation for each Area. The projection of new total target pilot compensation is determined separately for each pilotage Area by multiplying the number of pilots needed in each Area by the projected target rate of compensation for pilots working in that Area. Table 14 shows this calculation.

TABLE 14.—PROJECTED TARGET PILOT COMPENSATION

Pilotage area	Pilots needed (total = 44)	Multiplied by target rate of compensation	Projected target pilot compensation
Area 1	6	× $244,346	$1,466,077
Area 2	5	× $177,537	887,684
Total, District One			2,353,761
Area 4	5	× $177,537	887,684
Area 5	7	× $244,346	1,710,424
Total, District Two			2,598,108
Area 6	10	× $177,537	1,775,368
Area 7	4	× $244,346	977,385
Area 8	7	× $177,537	1,242,758
Total, District Three			3,995,511

Step 4: Increase the projected pilot compensation in Step 3 by the expense multiplier in Step 2. This step yields a projected increase in operating costs necessary to support the increased projected pilot compensation. Table 15 shows this calculation.

TABLE 15.—PROJECTED PILOT COMPENSATION, MULTIPLIED BY THE EXPENSE MULTIPLIER EQUALS PROJECTED OPERATING EXPENSE

Pilotage area	Projected target pilot compensation	Multiplied by expense multiplier	Projected operating expense
Area 1	$1,466,077	× .32166	= $471,581
Area 2	887,684	× .54468	= $483,505
Total, District One	2,353,761	× .40560	= $954,685
Area 4	887,684	× .63651	= $565,024
Area 5	1,710,424	× .48097	= $822,655
Total, District Two	2,598,108	× .53400	= $1,387,383
Area 6	1,775,368	× .51128	= $907,709
Area 7	977,385	× .36075	= $352,592
Area 8	1,242,758	× .45592	= $566,600
Total, District Three	3,995,511	× .45716	= $1,826,593

Step 5: Adjust the result in Step 4, as required, for inflation or deflation, and calculate projected total economic cost. Based on data from the U.S. Department of Labor's Bureau of Labor Statistics, we have multiplied the results in Step 4 by a 1.024 inflation factor, reflecting an average inflation rate of 2.4% in ''Midwest Economy—''Consumer Prices'' between 2005 and 2006, the latest years for which data are available. Table 16 shows this calculation and the projected total economic cost.

TABLE 16.—PROJECTED OPERATING EXPENSE, ADJUSTED FOR INFLATION, AND ADDED TO PROJECTED TARGET PILOT COMPENSATION EQUALS PROJECTED TOTAL ECONOMIC COST

Pilotage area	A. projected operating expense	B. increase, multiplied by inflation factor (= A × 1.024)	C. projected target pilot compensation	D. projected total economic cost (= B+C)
Area 1	$471,581	$482,899	$1,466,077	$1,948,977
Area 2	483,505	495,109	887,684	1,382,793
Total, District One	954,685	977,597	2,353,761	3,331,359
Area 4	565,024	578,584	887,684	1,466,268
Area 5	822,655	842,399	1,710,424	2,552,822
Total, District Two	1,387,383	1,420,680	2,598,108	4,018,788
Area 6	907,709	929,494	1,775,368	2,704,862
Area 7	352,592	361,054	977,385	1,338,439
Area 8	566,600	580,198	1,242,758	1,822,956
Total, District Three	1,826,593	1,870,432	3,995,511	5,865,942

Step 6: Divide the result in Step 5 by projected bridge hours to determine total unit costs. Table 17 shows this calculation.

TABLE 17.—PROSPECTIVE (TOTAL) UNIT COSTS

Pilotage area	A. projected total economic cost	B. projected 2008 bridge hours	Prospective (total) unit costs (A divided by B)
Area 1	$1,948,977	5,661	$344.28
Area 2	1,382,793	7,993	173.00
Total, District One	3,331,359	13,654	243.98
Area 4	1,466,268	8,490	172.71
Area 5	2,552,822	6,395	399.19
Total, District Two	4,018,788	14,885	269.99
Area 6	2,704,862	18,000	150.27
Area 7	1,338,439	3,863	346.48
Area 8	1,822,956	11,390	160.05

TABLE 17.—PROSPECTIVE (TOTAL) UNIT COSTS—Continued

Pilotage area	A. projected total economic cost	B. projected 2008 bridge hours	Prospective (total) unit costs (A divided by B)
Total, District Three	5,865,942	33,253	176.40

Step 7: Divide prospective unit costs (total unit costs) in Step 6 by the base period unit costs in Step 1. Table 18 shows this calculation, which expresses the percentage change between the total unit costs and the base unit costs. The results, for each Area, are identical with the percentage increases listed in Table 1.

TABLE 18.—PERCENTAGE CHANGE, PROSPECTIVE VS. BASE PERIOD UNIT COSTS

Pilotage area	A. prospective unit costs	B. base period unit costs	C. percentage change from base (A divided by B; result expressed as percentage)
Area 1	$344.28	$319.44	7.78
Area 2	173.00	159.5	8.41
Total, District One	243.98	225.86	8.02
Area 4	172.71	159.17	8.50
Area 5	399.19	369.67	7.98
Total, District Two	269.99	249.61	8.16
Area 6	150.27	138.66	8.37
Area 7	346.48	321.31	7.83
Area 8	160.05	147.77	8.31
Total, District Three	176.40	163.00	8.22

Step 8: Adjust the base period rates by the percentage change in unit costs in Step 7. Table 19 shows this calculation.

TABLE 19.—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS[1]

Pilotage area	A. base period rate	B. percentage change in unit costs (multiplying factor)	C. increase in base rate (A × B%)	D. adjusted rate (A + C, rounded to nearest dollar)
Area 1		7.78 (1.0778)		
Basic pilotage	$13/km, $23/mi		$1.01/km, $1.79/mi	$14/km, $25/mi
Each lock transited	288		22.41	310
Harbor movage	943		73.37	1,016
Minimum basic rate, St. Lawrence River	629		48.94	678
Maximum rate, through trip	2,761		214.81	2,976
Area 2		8.41 (1.0841)		
6-hr. period	477		40.12	517
Docking or undocking	455		38.27	493
Area 4		8.50 (1.0850)		
6 hr. period	641		54.49	695
Docking or undocking	494		41.99	536
Any point on Niagara River below Black Rock Lock	1,261		107.19	1,368
Area 5 between any point on or in:		7.98 (1.0798)		
Toledo or any point on Lake Erie W. of Southeast Shoal	1,004		80.12	1,084
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	1,699		135.58	1,835
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	2,206		176.04	2,382
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	1,699		135.58	1,835
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	2,959		236.13	3,195

TABLE 19.—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS[1]—Continued

Pilotage area	A. base period rate	B. percentage change in unit costs (multiplying factor)	C. increase in base rate (A × B%)	D. adjusted rate (A + C, rounded to nearest dollar)
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	3,428		273.55	3,702
Port Huron Change Point & Detroit River	2,223		177.40	2,400
Port Huron Change Point & Detroit Pilot Boat	1,729		137.97	1,867
Port Huron Change Point & St. Clair River	1,229		98.07	1,327
St. Clair River	1,004		80.12	1,084
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	2,959		236.13	3,195
St. Clair River & Detroit River/Detroit Pilot Boat	2,223		177.40	2,400
Detroit, Windsor, or Detroit River	1,004		80.12	1,084
Detroit, Windsor, or Detroit River & Southeast Shoal	1,699		135.58	1,835
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	2,206		176.04	2,382
Detroit, Windsor, or Detroit River & St. Clair River	2,223		177.40	2,400
Detroit Pilot Boat & Southeast Shoal	1,229		98.07	1,327
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	1,699		135.58	1,835
Detroit Pilot Boat & St. Clair River	2,223		177.40	2,400
Area 6		8.37 (1.0837)		
6 hr. period	479		40.09	519
Docking or undocking	455		38.08	493
Area 7 between any point on or in:		7.83 (1.0783)		
Gros Cap & De Tour	1,718		134.52	1,853
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	1,718		134.52	1,853
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap	647		50.66	698
Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	1,440		112.75	1,553
Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	647		50.66	698
Sault Ste. Marie, MI & De Tour	1,440		112.75	1,553
Sault Ste. Marie, MI & Gros Cap	647		50.66	698
Harbor movage	647		50.66	698
Area 8		8.31 (1.0831)		
6 hr. period	464		38.56	503
Docking or undocking	441		36.65	478

[1] Rates for "Cancellation, delay or interruption in rendering services (§ 401.420)" and "Basic Rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (§ 401.428)" are not reflected in this table but have been increased by 8.17% across all areas.

C. Amending 46 CFR 401.700 and 710

The Coast Guard also proposes to amend 46 CFR 401.700 and 401.710 to clarify the obligation imposed on Great Lakes registered pilots and authorized pilotage pools to fully and professionally cooperate in the course of performing their duties with U.S. and Canadian Coast Guard units and personnel, vessel traffic service personnel, and other lawful authority.

This amendment is required because foreign trade vessels piloted by U.S. pilots on the St. Lawrence Seaway and Great Lakes system routinely cross and re-cross the international boundary between the U.S. and Canada. Frequently numerous crossings are made in a single voyage with both sovereigns exercising authority at various points of a transit. The post 9/11 period of heightened security makes it imperative to clearly state the obligation of U.S. Great Lakes pilots and their associations to immediately and professionally comply with any legal directions received, and requests for information, from both U.S. and Canadian law enforcement authority and with those administrative personnel responsible for ensuring the safety and security of the system.

IV. Regulatory Evaluation

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. This rulemaking is not significant under Executive Order 12866 and will not be reviewed by OMB.

The Coast Guard is required to conduct an annual review of pilotage rates on the Great Lakes and, if necessary, adjust these rates to align compensation levels between Great Lakes pilots and industry. (See the "Background" section for a detailed explanation of the legal authority and requirements for the Coast Guard to conduct an annual review and provide possible adjustments of pilotage rates on the Great Lakes.) Based on our review, we are proposing an adjustment to the pilotage rates for the 2008 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment.

This proposed rule would implement an 8.17 percent average rate adjustment per area for the Great Lakes system over the rate adjustment found in the 2007 final rule. These adjustments to Great Lakes pilotage rates meet the requirements set forth in 46 CFR part 404 for similar compensation levels between Great Lakes pilots and industry. They also include adjustments for inflation and changes in association expenses to maintain these compensation levels.

The increase in pilotage rates will be an additional cost for shippers to transit the Great Lakes system. This proposed rule would result in a distributional effect that transfers payments (income) from vessel owners and operators to the Great Lakes' pilot associations through Coast Guard regulated pilotage rates.

The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in the foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. However, the Coast Guard issued a policy position several years ago stating that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this proposed rule, such as recreational boats and vessels only operating within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect the Coast Guard's calculation of the rate increase and is not a part of our estimated national cost to shippers.

We reviewed a sample of pilot source forms, which are the forms used to record pilotage transactions on vessels, and discovered very few cases of U.S. Great Lakes vessels (i.e., domestic vessels without registry operating only in the Great Lakes) that purchased pilotage services. There was one case where the vessel operator purchased pilotage service in District One to presumably leave the Great Lakes system. We assume some vessel owners and operators may also choose to purchase pilotage services if their vessels are carrying hazardous substances or were navigating the Great Lakes system with inexperienced personnel. Based on information from the Coast Guard Office of Great Lakes Pilotage, we have determined that these vessels voluntarily chose to use pilots and, therefore, are exempt from pilotage requirements.

We updated our estimates of affected vessels for the proposed rule by using recent vessel characteristics, documentation, and arrival data. We used 2005–2006 vessel arrival data from the National Vessel Movement Center (NVMC) and the Coast Guard's Marine Inspection, Safety, and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment to be 217 vessels that journey into the Great Lakes system. These vessels entered the Great Lakes by transiting through or in part of at least one of the three pilotage Districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 217 vessels, there were approximately 917 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2005–2006 vessel data from the NVMC and MISLE.

We used district pilotage revenues from the independent accountant's reports of the Districts' financial statements to estimate the additional cost to shippers of the rate adjustments in this proposed rule. These revenues represent the direct and indirect pilotage costs that shippers must pay for pilotage services in order to transit their vessels in the Great Lakes. Table 1 shows historical pilotage revenues by District.

TABLE 1.—DISTRICT REVENUES

[$U.S.]

Year	District one	District two	District three	Total
1998	2,127,577	3,202,374	4,026,802	9,356,753
1999	2,009,180	2,727,688	3,599,993	8,336,861
2000	1,890,779	2,947,798	4,036,354	8,874,931
2001	1,676,578	2,375,779	3,657,756	7,710,113
2002	1,686,655	2,089,348	3,460,560	7,236,563

Source: Annual independent accountant's reports of the Districts to the Coast Guard's Office of Great Lake Pilotage.

While the revenues have decreased over time, the Coast Guard adjusts pilotage rates to achieve a target pilot compensation similar to masters and first mates working on U.S. vessels engaged in the Great Lakes trade. Pilotage rates are set by the Coast Guard for revenues to equal the estimated costs of pilotage. Table 2 displays projected costs from the 2006 and 2007 final rules and the 2002 revenue from Table 1.

TABLE 2.—REVENUES AND COSTS THROUGH THE 2007 RATE ADJUSTMENT

[$U.S.][1]

District	District one	District two	District three	Total[2]
2002 District Revenues	1,686,655	2,089,348	3,460,560	7,236,563
2006 Total Projected Economic Cost	2,692,426	3,238,337	4,722,162	10,652,925
2007 Total Projected Economic Cost	3,083,904	3,715,426	5,420,279	12,219,609

[1] For the calculation of the 2006 and 2007 projected economic costs, see the "Discussion of Rule" sections of the 2006 and 2007 final rules published in the **Federal Register**.

[2] Some values may not total due to rounding.

We estimate the additional cost of the rate adjustment in this proposed rule to be the difference between the total revenue needed to cover costs based on the 2007 rate adjustment and the total projected economic cost in this proposed rule. Table 3 compares projected economic costs in 2007 and costs of the proposed rule to industry by district.

TABLE 3.—RATE ADJUSTMENT FACTORS AND ADDITIONAL COST OF THIS PROPOSED RULE

[$U.S.]

District	District one	District two	District three	Total [1]
Total Projected Economic Cost in 2007	3,083,904	3,715,426	5,420,279	12,219,609
Proposed Rate Adjustment [2]	1.0802	1.0816	1.0822	1.0817
Total Projected Economic Cost in 2008	3,331,359	4,018,788	5,865,942	13,216,089
Additional Revenue Required or Cost of this Rulemaking [3]	247,455	303,362	445,663	996,480

[1] Some values may not total due to rounding.

[2] See steps 5(b) and 7 of the "Calculating the Rate Adjustment" section of this proposed rule for the "Proposed Rate Adjustment" and the "Total Projected Economic Cost in 2008".

[3] Additional revenue or cost of this rule = "Total Projected Economic Cost in 2008"—"Total Projected Economic Cost in 2007".

After applying the rate change in this proposed rule, the resulting difference between the adjusted economic cost in 2007 and the projected economic cost in 2008 is the annual cost to shippers from this proposed rule. This figure will be equivalent to the total additional payments that shippers will make for pilotage services from this proposed rule.

The annual cost of the rate adjustment in this proposed rule to shippers is approximately $1.0 million (non-discounted). To calculate an exact cost per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators will pay more and some will pay less depending on the distance and port arrivals of their vessels' trips. However, the annual cost reported above does capture all of the additional cost the shippers face as a result of the rate adjustment in this proposed rule.

In addition to the annual reviews and possible partial rate adjustments, the Coast Guard is required to determine and, if necessary, perform a full adjustment of Great Lakes pilotage rates at a minimum of once every five years. Due to the frequency of the full rate adjustments, we estimated the total cost to shippers of the rate adjustments in this proposed rule over a five-year period instead of a ten-year period. The total five-year (2008–2012) present value cost estimate of this proposed rule to shippers is $4.4 million discounted at a seven percent discount rate and $4.7 million discounted at a three percent discount rate.

For the calculation of the total five-year present value cost estimate, we chose not to discount first-year costs and instead began discounting in the second year, because we anticipate that industry would most likely begin to incur costs immediately upon publication of this proposed rule during the 2008 Great Lakes shipping season which is generally less than a calendar year. We also considered a middle-of-year discounting process to account for the payments occurring over the course of the year but the difference was small considering the overall cost of the proposed rule.

A. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We expect entities affected by the proposed rule would be classified under the North American Industry Classification System (NAICS) code subsector 483-Water Transportation, which includes one or all of the following 6-digit NAICS codes for freight transportation: 483111-Deep Sea Freight Transportation, 483113-Coastal and Great Lakes Freight Transportation, and 483211-Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and employing less than 500 employees is considered a small entity.

For the proposed rule, we reviewed recent company size and ownership data from 2005–2006 Coast Guard MISLE data and business revenue and size data provided by reference USA and Dunn and Bradstreet. We were able to gather revenue and size data or link the entities to large shipping conglomerates for 22 of the 24 affected entities in the United States. We found that large, mostly foreign-owned, shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants will be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the proposed rule that would receive the additional revenues from the rate adjustment. These are the three pilot associations that are the only entities providing pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are classified with the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees: approximately 65 total employees combined. However, they are not adversely impacted with the additional costs of the rate adjustments, but instead receive the additional revenue benefits for operating expenses and pilot compensation.

Therefore, the Coast Guard has found that this proposed rule would not have a significant impact on a substantial number of U.S. small entities under 5 U.S.C. 605(b). If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

B. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the proposed rule so that they could better evaluate its effects on them and participate in the rulemaking.

If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Mike Sakaio, Great Lakes Pilotage Branch, (CG–54122), U.S. Coast Guard, telephone 202–372–1538 or send him e-mail at *Michael.Sakaio@uscg.mil*. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule does not change the burden in the collection currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

D. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism because there are no similar State regulations, and the States do not have the authority to regulate and adjust rates for pilotage services in the Great Lakes system.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

G. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

H. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

I. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

J. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This rule adjusts rates in accordance with applicable statutory and regulatory mandates. An ''Environmental Analysis Check List'' is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 46 CFR Part 401

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507

2. In § 401.405, revise paragraphs (a) and (b) to read as follows:

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$14 per Kilometer or $25 per mile. [1]

Service	St. Lawrence River
Each Lock Transited	$310. [1]
Harbor Movage	$1,016. [1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $678, and the maximum basic rate for a through trip is $2,976.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$517
Docking or Undocking	493

3. In § 401.407 revise paragraphs (a) and (b) to read as follows:

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

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
Six-Hour Period	$695	$695
Docking or Undocking	536	536
Any Point on the Niagara River below the Black Rock Lock	N/A	$1,368

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$1,835	$1,084	$2,382	$1,835	N/A
Port Huron Change Point	[1] 3,195	3,702	2,400	1,867	$1,327
St. Clair River	[1] 3,195	N/A	2,400	2,400	1,084
Detroit or Windsor or the Detroit River	1,835	2,382	1,084	N/A	2,400
Detroit Pilot Boat	1,327	1,835	N/A	N/A	2,400

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

4. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges 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	$519
Docking or Undocking	493

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Any	Cap harbor
Gros Cap	$1,853	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	1,853	698	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	1,553	$698	N/A
Sault Ste. Marie, MI	1,553	698	N/A
Harbor Movage	N/A	N/A	$698

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$503
Docking or Undocking	478

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number ''$86'' and add, in its place, the number ''$93''; and remove the number ''$1,349'' and add, in its place, the number ''$1,459''.

b. In paragraph (b), remove the number ''$86'' and add, in its place, the number ''$93''; and remove the number ''$1,349'' and add, in its place, the number ''$1,459''.

c. In paragraph (c)(1), remove the number ''$510'' and add, in its place, the number ''$552''; in paragraph (c)(3), remove the number ''$86'' and add, in its place, the number ''$93''; and, also in paragraph (c)(3), remove the number ''$1,349'' and add, in its place, the number ''$1,459''.

§ 401.428 [Amended]

6. In § 401.428, remove the number ''$520'' and add, in its place, the number ''$562''.

7. Revise § 401.700 to read as follows:

§ 401.700 Operating requirements for U.S. registered pilots.

Each U.S. registered pilot shall—

(a) Provide pilotage service when dispatched by his pool;

(b) Comply with the dispatching orders of the Director under § 401.720(b);

(c) Comply immediately and professionally, consistent with the safe navigation of the vessel, with all lawful requests and directions received from U.S. and Canadian Coast Guard units and personnel, vessel traffic service personnel, and other lawful authority; and

(d) A violation of any of these provisions may be punished in accordance with 46 CFR 401.500 and be grounds for the suspension or revocation of a pilots registration pursuant to 46 CFR 401 subpart F.

8. In § 401.710, revise paragraphs (f) and (g) and add paragraphs (h) and (i) to read as follows:

§ 401.710 Operating requirements for holders of Certificates of Authorization

* * * * *

(f) Comply with all accounting procedures and the reporting requirements in this chapter;

(g) Make available to the Commandant all of its financial and operating records;

(h) Comply immediately and professionally with all lawful requests and directions received from U.S. and Canadian Coast Guard units and personnel, vessel traffic service personnel, and other lawful authority; and

(i) A violation of any of these provisions may be punished in accordance with 46 CFR 401.500 and be grounds for the suspension or revocation of a pilot association's certificate of authorization to operate a pool pursuant to 46 CFR 401.335.

Dated: January 29, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security & Stewardship.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–120; FCC 07–170]

Carriage of Digital Television Broadcast Signals

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: While the *Third Report and Order* resolves the major questions about material degradation and viewability after the transition, we now seek comment on a number of related issues which were not specifically raised in the *Second Further Notice of Proposed Rulemaking.* Now that the general rules are in place, the Commission believes it is appropriate to move toward an expeditious resolution of these outstanding matters so that all parties will have sufficient time to prepare for compliance with these new rules.

DATES: Comment Date: March 3, 2008. Reply Comment Date: March 17, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, please contact Lyle Elder, *Lyle.Elder@fcc.gov,* or Eloise Gore, *Eloise.Gore@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Third Further Notice of Proposed Rule Making (Third FNPRM) in CS Docket No. 98–120, FCC 07–170, adopted September 11, 2007, and released November 30, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Third Notice of Proposed Rule Making

A. Issues Related to Downconversion

1. Channel Placement: Section 614(b)(6) generally provides that commercial television stations carried pursuant to the mandatory carriage provision are entitled to be carried on a cable system on the same channel number on which the station broadcasts over-the-air. Under Section 615(g)(5) noncommercial television stations generally have the same right. The Act also permits commercial and noncommercial television stations to negotiate a mutually beneficial channel position with the cable operator. In the *First Report and Order,* the Commission found that it was unnecessary to place broadcast signals on a specific frequency in order to ensure nondiscriminatory treatment of television stations by cable operators. Instead, the Commission required that channel mapping information be passed through as part of the program and system information protocol (''PSIP''), linking the digital channel number with the appropriate primary video and program-related content. How should these channel positioning rules apply to operators carrying more than one version of a station's signal? We seek comment on this question. For systems that provide analog service, we propose that the analog version be physically located on the appropriate channel as determined by the channel placement rules, and that the version as broadcast appear on that same channel for digital subscribers who can view it. We seek comment on this proposal. We also seek comment on whether it will be technically possible for multiple digital versions to appear on the same channel from a subscriber perspective (e.g., channel 35 in HD for subscribers with HD, and the same channel 35 in SD for subscribers with SD). If so, should we adopt such a requirement?

2. Format: NAB and MSTV raise the point that ''[w]hen digital programming is broadcast in a 16:9 format, downconversion of the signal to analog generally requires that the program be reformatted to fit the 4:3 analog aspect ratio.'' Broadcasters may broadcast not only in different resolutions—HD, ED, SD—but also in different formats—16:9 or 4:3. When a digital signal is downconverted, particularly from HD to analog, it is likely to be a 16:9 signal being adjusted for display on a 4:3 screen. However, at times, particularly during the early years of the post-transition period, even HD broadcasters are likely to occasionally show images in a 4:3 aspect ratio, adding static bars to the edge of the broadcast picture to compensate. How should the downconverted signal be adjusted (letterboxing, centering, etc.), and if the Commission does not adopt a rule, who should make that decision? NAB proposes that, for signals converted at the headend, broadcasters make the determination, and for signals converted at a converter box, the boxes be required to allow the consumer to determine the format (as in the NTIA boxes). NCTA responds with a proposal to allow operators to determine the format of downconverted signals, arguing that operators are best able to determine how to ''serve the needs of their analog viewing customers.'' We seek comment on the appropriate approach for the Commission to take, and the costs and benefits of these proposals and any others offered by commenters.

B. Material Degradation Issues

3. As NAB and MSTV note, the Commission found in 1993 that the material degradation rules apply equally to must carry stations and retransmission consent stations. They argue that this should be the case after the transition as well. NCTA, however, notes that in the *First Report and Order,* the Commission said that: