by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail & Priority Mail Contract 3 is included with the Request. The contract is for 3 years and is to be effective 1 day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). *See id.*, Attachment A and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that the contract will remain profitable. *Id.*, Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail & Priority Mail Contract 3, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2–3.

II. Notice of Filings

The Commission establishes Docket Nos. MC2009–13 and CP2009–17 for consideration of the Request pertaining to the proposed Express Mail & Priority Mail Contract 3 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR part 3020 subpart B. Comments are due no later than January 5, 2009. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

It is Ordered:

1. The Commission establishes Docket Nos. MC2009–13 and CP2009–17 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 5, 2008.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

Dated: December 23, 2008.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E8–31252 Filed 1–2–09; 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: Final Rule.

SUMMARY: The Coast Guard is revising and finalizing the March 2008 interim rule, which updated rates for pilotage service on the Great Lakes by increasing rates an average of 8.17% over the last ratemaking that was completed in September 2007. In response to new contract provisions and to public comments on our rulemaking, this final rule increases rates an additional 9.95%, for a total average increase of 18.92% since 2007.

DATES: This final rule is effective February 4, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–0039 and are available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this final rule, please call Mr. Paul Wasserman, Chief, Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1929, or e-mail *Paul.M.Wasserman@uscg.mil.* For questions on viewing or submitting material to the docket, call Renee V. Wright, Chief, Dockets, Department of Transportation, telephone 202–493–0402.

Table of Contents

I. Abbreviations

AMOU American Maritime Officer union
GLPAC Great Lakes Pilotage Advisory Committee
MISLE Coast Guard Marine Inspection, Safety, and Law Enforcement
MOA Memorandum of Agreement
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget

II. Background

The Great Lakes Pilotage Act of 1960, codified in Title 46, Chapter 93, of the United States Code (U.S.C.), requires foreign-flag vessels and U.S.-flag vessels in foreign trade to use Federal Great Lakes registered pilots while transiting the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302, 9308. The Coast Guard is responsible for administering this pilotage program, which includes setting rates for pilotage service. 46 U.S.C. 9303.

The Coast Guard pilotage regulations require annual reviews of pilotage rates and the creation of a new rate at least once every five years, or sooner, if annual reviews show a need. 46 CFR part 404. 46 U.S.C. 9303(f) requires these reviews and, where deemed appropriate, that adjustments be established by March 1 of every shipping season.

To assist in calculating pilotage rates, the three Great Lakes pilots' 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 full ratemaking, the

Coast Guard contracts with an independent accounting firm to conduct audits of the accounts and records of the pilotage associations and to 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 46 CFR Part 404, and adjusts rates as appropriate.

The last full Appendix A ratemaking used 2002 data and was published in the **Federal Register** on April 3, 2006 (71 FR 16501). A 2007 Appendix C ratemaking was completed on September 18, 2007 (72 FR 53158). An Appendix C review of rates for the 2008 season showed a need for further adjustment. That adjustment was the subject of a notice of proposed rulemaking (NPRM; 73 FR 6085, Feb. 1, 2008) proposing a rate increase averaging 8.17% across all three districts. The NPRM also proposed to clarify the duty of pilots and pilot associations to cooperate with lawful authority. On March 21, 2008, we published an interim rule (73 FR 15092) making the 8.17% increase effective immediately and requesting additional comments. In addition to the public comments received on the NPRM, we invited comments on the interim rule.

III. Discussion of Comments

The Coast Guard received six comments in response to the NPRM and one on the interim rule. Two comments on the NPRM were received from legal representatives of the pilots' associations; one comment on the NPRM and one on the interim rule were received from the Shipping Federation of Canada; two comments on the NPRM were received from the St. Lawrence Seaway Pilots' Association; and one comment on the NPRM was received from the American Pilots' Association. In the interim rule, we summarized points made by commenters on the NPRM, but deferred full discussion for the final rule.

All the NPRM and interim rule commenters made points about the larger context within which our annual rate rulemaking takes place. Collectively, these comments indicated a desire for a comprehensive review of Coast Guard ratemaking procedures, to take into account:

- Determination of bridge hours, particularly in light of Rear Admiral J. Timothy Riker's bridge hour standards report;
- The pilots' contention that we should base our calculations on a 284 day navigation season instead of a nine month season;
- Industry interest in pilot efficiency standards against which ratemaking adjustments can be measured; and
- Alignment of U.S. and Canadian Great Lakes pilotage rates.

We note these comments which are outside the scope of this rulemaking and are actively considering ways to bring about the desired comprehensive review. Your ideas on how best to conduct a comprehensive review are welcome at any time; they may be addressed to Mr. Paul Wasserman whose contact information appears in the FOR FURTHER INFORMATION CONTACT section of this preamble. The Coast Guard is advised on Great Lakes pilotage matters by the Great Lakes Pilotage Advisory Committee (GLPAC), to which suggestions also may be sent. To send suggestions, or for further information on GLPAC, contact Mr. John Bobb at (202) 372–1532 or at *John.K.Bobb@USCG.mil.*

The commenter on our interim rule asked for a full ratemaking pursuant to 46 CFR 404.1(b). We are honoring that request and have already begun the next full Appendix A ratemaking. As previously noted, our last Appendix A ratemaking used 2002 data and was completed in 2006. We are now auditing 2007 pilot financial data for the next Appendix A ratemaking. Meanwhile, we are also preparing for the 2009 annual Appendix C review.

One commenter on the NPRM stated the Coast Guard proposed an increase without any demonstration of its need. We disagree and observe that the NPRM and interim rule both provided detailed information to show how we applied the 46 CFR Part 404, Appendix C ratemaking methodology.

One commenter on the NPRM asked us to post, on the public docket, the pilot association financial statements and American Maritime Officer union (AMOU) contracts relied upon in this ratemaking. We have honored this request and the documents may be viewed on the docket as described in the ADDRESSES section of this preamble.

As we discussed in the interim rule, several commenters on the NPRM opposed our proposal to clarify the duty of pilots and pilot associations to cooperate with lawful authority, saying the proposal needed further justification. We removed the proposed language in the interim rule. Given the apparent public interest in this subject, we have decided it cannot be treated properly in the context of annual ratemakings that need to be completed quickly. If we return to this subject in the future, we will fully justify our position and provide ample opportunity for public comment.

Two commenters on the NPRM pointed out that the 49.5 monthly multiplier we proposed and used for the interim rule failed to reflect the two separate sets of AMOU contracts in use, which in the NPRM were referred to as Agreements A and B. We agree and our final rule uses a 54.5 multiplier for Agreement A contracts and a 49.5 multiplier for Agreement B contracts.

One commenter on the NPRM pointed out that, under both sets of Agreements A and B, a 4.57% increase in the daily wage rate and health insurance contributions took effect August 1, 2008. We agree and have revised the final rule to reflect that change.

Two commenters on the NPRM said that we overstated bridge hour projections for Areas 2, 4, and 5, thereby underestimating the rates needed to permit pilots to make target pilot compensation. They pointed out that the NPRM (and subsequently the interim rule) stated that bridge hours would remain the same as they had been in 2007 and that, therefore, we should make projections for 2008 based on the actual 2007 bridge hours. We agree and have reduced the hour projections for Areas 2, 4, and 5 to the actual bridge hours for 2007. The Area 2 reduction would ordinarily result in a reduction to four pilots, but experience has demonstrated the need for at least five pilots in that area.

Data has shown that as a fifth U.S. pilot begins working in Area 2, vessel delays due to awaiting a pilot completing a mandatory rest between assignments have decreased from 78 hours during the 2007 navigation season to five total hours during the 2008 navigation season. Whereas when there were only four pilots servicing vessels on Lake Ontario in 2005 & 2006 there were 300 hours and 340 hours of delay to vessels respectively. There have also been 17 pilot resignations in Area 2 over the past 13 years. A significant pilot attrition problem exists in Area 2. This is attributed to pilots continually having to return to work immediately after completing a mandatory minimum rest period. Since putting on a fifth pilot in Area 2, there has not been one resignation in the last 2.5 years.

The additional pilot is necessary both to ensure adequate pilotage service and to ensure that the 1977 U.S.-Canadian Memorandum of Agreement's (MOA's) 50–50 U.S.-Canadian traffic sharing provision can be met. The Canadian pilots cover Area 2 with a total of six pilots as opposed to 5 U.S. pilots covering the same area. In 2007 50% of the U.S. piloted vessels transiting Area 2 go straight through the district, pilot boat to pilot boat. Because of distances and normal speeds attained by vessels the trip between Cape Vincent and Port Weller will typically last no more than two six hour period charges. Similarly, in Area 4 58% of U.S. piloted vessel transits going straight through District 2 are charged three or more period charges. Therefore, there is less revenue generated in Area 2 than in Area 4.

It should also be noted that the rate increase in Area 2 now very closely matches the current Canadian rates for the first time in many years. Due to these factors we are refraining from reducing the number of pilots on which our calculations are based for Area 2. However, we have reduced by one the number of pilots on which our calculations are based for Areas 4 and 5, because the District 2 Pilots' Association has routinely operated with an average of one less pilot than is authorized under the rate and for the last season and a half with two fewer pilots than authorized. Accordingly, a reduction of one pilot per area reflects actual practice.

IV. Discussion of the Final Rule

A. Pilotage Rate Changes Summarized

This final rule adjusts pilotage rates in accordance with Appendix C of 46 CFR part 404, by increasing rates an average 18.92% over the 2007 final rule. The increase in Areas 1, 6, 7, and 8 is attributable to AMOU contract increases that took effect between August 1, 2006, and August 1, 2008, an adjustment to the AMOU contract monthly multiplier in the Agreement A contracts, and the use of an updated consumer price index. The increases in Areas 2, 4, and 5 reflect the changes referred to above and also the public comments discussed in Part III of this preamble. We are also making an across-the-board increase, equal to 18.92% above the 2007 rate, for service interruptions, delays, and cancellations, and for boarding or discharging pilots at non-normal locations. The new rates are comparable to Canadian rates that took effect January 1, 2008. Table 1 summarizes the rate changes since 2007.

TABLE 1—SUMMARY OF RATE CHANGES SINCE 2007

	2008 IR/ 2008 NPRM percent increase over 2007 FR	2008 FR percent increase over 2008 IR/ 2008 NPRM	Total 2008 FR percent increase over 2007 FR	2008 FR percent increase from 2008 IR/ 2008 NPRM	Total 2008 FR percent increase from 2007 FR
	Increases effective before August 1, 2008			Increase effective after August 2, 2008	
Area 1	7.78	2.09	10.03	6.65	14.94
Area 2 *	8.41	44.18	56.30	50.88	63.57
Area 4 *	8.50	−5.44	2.61	−1.03	7.39
Area 5	7.98	9.79	18.55	14.72	23.88
Area 6	8.37	1.92	10.45	6.65	15.58
Area 7	7.83	2.09	10.08	6.66	15.01
Area 8	8.31	1.92	10.38	6.64	15.50
Average Rate Change	8.17	5.15	13.72	9.95	18.92

* Note: Area 3 is omitted, being entirely in Canadian waters and not under U.S. jurisdiction.

B. Calculating the Rate Adjustment

The Appendix C to Part 404 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).

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 final rule. The Coast Guard also used the most recent union contracts between the AMOU 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 subtract the return element from the base operating expense to show the component parts comprising total economic cost used in this calculation. These two expenses are eventually recombined as total operating expenses and subsequently added to base pilot compensation to yield the total economic cost. The subtraction and addition of the return element is for illustrative purposes only. It does not change total expenses and, therefore, does not affect the total economic cost calculation. The sum of all expenses and the return element are added together and divided by total bridge hours for each area to arrive at the base cost 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 (less base return element)	$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 5 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 pilot compensation bears to all other expenses. 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
Subtotal	=$525,608	=$767,763	=$1,293,371
Base target pilot compensation	÷$825,760	÷$1,596,295	÷$2,422,055

TABLE 6—EXPENSE MULTIPLIER, DISTRICT TWO—Continued

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
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, to determine the new target of 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 AMOU contracts with the U.S. companies engaged in Great Lakes shipping. Where different AMOU 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 AMOU. 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 AMOU 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 AMOU contracts. The agreements involved a 5% wage rate increase effective August 1, 2006, a 3% increase effective August 1, 2007, and a 4% increase effective August 1, 2008. Under one set of agreements (''Agreement A''), the daily wage rate increased from $226.95 to $245.46 effective until July 31, 2008, and to $255.28 effective August 1, 2008. Similarly, under the other set of agreements (''Agreement B''), the daily wage rate was raised from $279.55 to $302.33 effective until July 31, 2008, and to $314.42 effective August 1, 2008.

To calculate monthly wages, we apply Agreement A and Agreement B monthly multipliers of 54.5 and 49.5, respectively, to the daily rate. The 54.5 multiplier represents 30.5 average working days, 15.5 vacation days, 1.5 additional days of pay per holiday per month, 4 days for four weekends, and 3 bonus days. The 49.5 multiplier represents 30.5 average working days, 16 vacation days, and 3 bonus days.

To calculate average annual compensation, we multiply monthly figures by nine 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:		
$255.28 daily rate × 54.5 days	$13,913	$20,869
AGREEMENT A:		
Monthly total × 9 months = total wages	125,214	187,821
AGREEMENT B:		
$314.42 daily rate × 49.5 days	15,564	23,346
AGREEMENT B:		
Monthly total × 9 months = total wages	140,076	210,113

Benefits under Agreements A and B include a health contribution rate of $73.36 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 AMOU 401K employer matching rate remained at 5% of the wage rate. A clerical contribution included in the 2003 contracts was eliminated under both contracts. The multiplier used to calculate monthly benefits under Agreements A and B 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%)	$695.63	$1,043.45
Pension = $33.35 × 45.5 days	$1,517.43	$1,517.43
Health = $73.36 × 45.5 days	$3,337.88	$3,337.88
AGREEMENT B:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$778.20	$1,167.30
Pension = $43.55 × 45.5 days	$1,981.53	$1,981.53
Health = $73.36 × 45.5 days	$3,337.88	$3,337.88
AGREEMENT A:		
Monthly total benefits	= $5,550.94	= $5,898.76
AGREEMENT A:		
Monthly total benefits × 9 months	= $49,958	= $53,089
AGREEMENT B:		
Monthly total benefits	= $6.097.60	= $6,486.70
AGREEMENT B:		
Monthly total benefits × 9 months	= $54,878	= $58,380

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	$125,214	$187,821
AGREEMENT A: Benefits	+$49,958	+53,089
AGREEMENT A: Total	= $175,173	= $240,913
AGREEMENT B: Wages	$140,076	$210,113
AGREEMENT B: Benefits	+$54,878	+$58,380
AGREEMENT B: Total	= $194,954	= $268,494

Table 11 shows that, for the four U.S. Great Lakes shipping companies currently operating under AMOU 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 AMOU 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	$175,173 × 29.3343% = $51,386.	$240,910 × 29.3343% = $70,669.
AGREEMENT B:		
Total wages and benefits × percent tonnage	$194,954 × 70.6657% = $137,766.	$268,494 × 70.6657% = $189,733.
Total weighted average wages and benefits = projected target rate of compensation.	$51,386 + $137,766 = $189,152.	$70,669 + $189,733 = $260,402.

(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).

Based on historical data, information provided by pilots and industry, and the comments received in response to the NPRM and interim rule, the number of bridge hours in Areas 1, 6, 7, and 8 remains unchanged from the NPRM and interim rule, and, as previously discussed, we are reducing the projected bridge hours in Areas 2, 4, and 5 and reducing by one each the number of pilots authorized for Areas 4 and 5.

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 = 42)
Area 1	5,661	1,000	6
Area 2	5,650	1,800	*5
Area 4	7,320	1,800	4
Area 5	5,097	1,000	6
Area 6	18,000	1,800	10
Area 7	3,863	1,000	4
Area 8	11,390	1,800	7

*Calculation = 4 pilots; maintaining at 5 pilots to ensure adequate service; see discussion in Part III.

(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 = 42)	Multiplied by target rate of compensation	Projected target pilot compensation
Area 1	6	× $260,402	$1,562,413
Area 2	5	× 189,152	945,760
Total, District One	11		2,508,173
Area 4	4	× 189,152	756,608
Area 5	6	× 260,402	1,562,413
Total, District Two	10		2,319,021
Area 6	10	× 189,152	1,891,520
Area 7	4	× 260,402	1,041,609
Area 8	7	× 189,152	1,324,064
Total, District Three	21		4,257,193

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	$1,562,413	× .32166	= $502,569
Area 2	945,760	× .54468	= 515,138
Total, District One	2,508,173	× .40560	= 1,017,314
Area 4	756,608	× .63651	= 481,592
Area 5	1,562,413	× .48097	= 751,467
Total, District Two	2,319,021	× .53400	= 1,238,351
Area 6	1,891,520	× .51128	= 967,095

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

Pilotage area	Projected target pilot compensation	Multiplied by expense multiplier	Projected operating expense
Area 7	1,041,609	× .36075	= 375,761
Area 8	1,324,064	× .45592	= 603,669
Total, District Three	4,257,193	× .45716	= 1,946,224

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 1.027 inflation factor, reflecting an average inflation rate of 2.7% in ''Midwest Economy—Consumer Prices'' between 2006 and 2007, 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 × 1.027)	C. Projected Target Pilot Compensation	D. Projected Total Economic Cost (= B+C)
Area 1	$502,568.82	$516,138.18	$1,562,412.77	$2,078,550.94
Area 2	515,137.75	529,046.47	945,760.00	1,474,806.47
Total, District One	1,017,314.10	1,044,781.59	2,508,172.77	3,552,954.35
Area 4	481,591.77	494,594.74	756,608.00	1,251,202.74
Area 5	751,466.81	771,756.41	1,562,412.77	2,334,169.18
Total, District Two	1,238,350.99	1,271,786.47	2,319,020.77	3,590,807.23
Area 6	967,095.03	993,206.60	1,891,520.00	2,884,726.60
Area 7	375,760.72	385,906.26	1,041,608.51	1,427,514.77
Area 8	603,668.75	619,967.81	1,324,064.00	1,944,031.81
Total, District Three	1,946,224	1,998,772.10	4,257,192.51	6,255,964.61

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	$2,078,550.94	5,661	$367.17
Area 2	1,474,806.47	5,650	261.03
Total, District One	3,552,954.35	11,311	314.11
Area 4	1,251,202.74	7,320	170.93
Area 5	2,334,169.18	5,097	457.95
Total, District Two	3,590,807.23	12,417	289.18
Area 6	2,884,726.60	18,000	160.26
Area 7	1,427,514.77	3,863	369.54
Area 8	1,944,031.81	11,390	170.68
Total, District Three	6,255,964.61	33,253	188.13

Step 7: Divide prospective unit costs (total unit costs) in Step 6 by the unit cost 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	$367.17	$319.44	14.94
Area 2	261.03	159.58	63.57
Total, District One	314.11	225.86	39.08
Area 4	170.93	159.17	7.39
Area 5	457.95	369.67	23.88
Total, District Two	289.18	249.61	15.85
Area 6	160.26	138.66	15.58
Area 7	369.54	321.50	15.01
Area 8	170.68	147.77	15.50
Total, District Three	188.13	163.00	15.42

Step 8: Adjust the base period rates by the percentage change in unit costs in Step 7. The base period rates are the rates set by the 2007 Final Rule. 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 cent)
Area 1		14.94 (1.1494)		
—Basic pilotage	$13/km, $23/mi		$1.94/km, $3.44/mi	$14.94/km, $26.44/mi
—Each lock transited	288		43.03	331.03
—Harbor movage	943		140.89	1,083.89
—Minimum basic rate, St. Lawrence River	629		93.98	722.98
—Maximum rate, through trip	2,761		412.51	3,173.51
Area 2		63.57 (1.6357)		
—6-hr. period	477		303.23	780.23
—Docking or undocking	455		289.24	744.24
Area 4		7.39 (1.0739)		
—6 hr. period	641		47.35	688.35
—Docking or undocking	494		36.49	530.49
—Any point on Niagara River below Black Rock Lock	1,261		93.15	1,354.15
Area 5 between any point on or in		23.88 (1.2388)		
—Toledo or any point on Lake Erie W. of Southeast Shoal	1,004		239.75	1,243.75
—Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	1,699		405.72	2,104.72
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	2,206		526.79	2,732.79
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	1,699		405.72	2,104.72
—Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	2,959		706.60	3,665.60
—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		818.60	4,246.60
—Port Huron Change Point & Detroit River	2,223		530.85	2,753.85
—Port Huron Change Point & Detroit Pilot Boat	1,729		412.88	2,141.88
—Port Huron Change Point & St. Clair River	1,229		293.48	1,522.48
—St. Clair River	1,004		239.75	1,243.75

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 cent)
—St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	2,959		706.60	3,665.60
—St. Clair River & Detroit River/Detroit Pilot Boat	2,223		530.85	2,753.85
—Detroit, Windsor, or Detroit River	1,004		239.75	1,243.75
—Detroit, Windsor, or Detroit River & Southeast Shoal	1,699		405.72	2,104.72
—Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	2,206		526.79	2,732.79
—Detroit, Windsor, or Detroit River & St. Clair River	2,223		530.85	2,753.85
—Detroit Pilot Boat & Southeast Shoal	1,229		293.48	1,522.48
—Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	1,699		405.72	2,104.72
—Detroit Pilot Boat & St. Clair River	2,223		530.85	2,753.85
Area 6		15.58 (1.1558)		
—6 hr. period	479		74.62	553.62
—Docking or undocking	455		70.88	525.88
Area 7 between any point on or in		15.01 (1.1501)		
—Gros Cap & De Tour	1,718		257.83	1,975.83
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	1,718		257.83	1,975.83
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap	647		97.10	744.10
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	1,440		216.11	1,656.11
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	647		97.10	744.10
—Sault Ste. Marie, MI & De Tour	1,440		216.11	1,656.11
—Sault Ste. Marie, MI & Gros Cap	647		97.10	744.10
—Harbor movage	647		97.10	744.10
Area 8		15.50 (1.1550)		
—6 hr. period	464		71.92	535.92
—Docking or undocking	441		68.36	509.36

[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 18.92% across all areas.

V. Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

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* Part I of this preamble 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 adjusting the pilotage rates for the 2008 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment.

The Coast Guard is revising and finalizing the March 2008 interim rule for pilotage service on the Great Lakes by increasing the rate by an average of 18.92% across all three pilotage districts over the last ratemaking that was completed in September 2007. A Notice of Proposed Rulemaking was published on February 1, 2008 proposing an average 8.17% increase over the 2007 Final Rule rates. An Interim Rule was published on March 17, 2008 putting the 8.17% increase into effect prior to the 2008 navigation season. In response to new AMOU contract provisions and public comments on our rulemaking, this final rule increases rates an additional average 9.95%, for a total average increase of 18.92% since 2007. Since percentages are not additive, the summation of 8.17% and 9.95% do not yield 18.92% (*see* Table 1 for a specific area percentage). This increase is the result of changes made in response to industry and public comments on the ratemaking process as well as an increase in compensation and benefits under the AMOU contract that went into effect August 1, 2008.

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 rule will 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. It is the Coast Guard's interpretation 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 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 updated our estimates of affected vessels for the rule by using recent vessel characteristics, documentation, and arrival data. We used 2006–2007 vessel arrival data from 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 208 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 208 vessels, there were approximately 923 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2006–2007 vessel data from MISLE.

The cost of the rate adjustment to shippers is estimated from the district pilotage revenues. These revenues represent the direct and indirect costs that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage.

We estimate the cost of the revised rate adjustment in this rule to be the difference between the total economic costs based on the 2007 rate adjustment and the total projected economic cost in this final rule. Table 20 compares projected economic costs in 2007 and costs of the rule to industry by district.

TABLE 20—RATE ADJUSTMENT FACTORS AND ADDITIONAL COST OF THIS FINAL RULE (COSTS ARE IN $U.S.)

District	District One	District Two	District Three	Total [1]
Total Economic Cost in 2007 (Base Period)	3,083,904	3,715,426	5,420,279	12,219,609
Final Rate Adjustment [2]	1.1521	0.9665	1.1542	1.0965
Total Projected Economic Cost in 2008	3,552,949	3,590,802	6,255,945	13,399,696
Additional Revenue Required or Cost of this Rulemaking [3]	469,045	−124,624	835,666	1,180,087

[1] Some values may not total due to rounding.
[2] See steps 5 and 7 of the ''Calculating the Rate Adjustment'' section of this final rule for the 'Final 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 revised rate in this final rule, the resulting difference between the economic cost in 2007 and the projected economic cost in 2008 is the annual cost to shippers from this rule. This figure is equivalent to the total additional payments that shippers make for pilotage services from the 2008 rate adjustments.

The annual cost of the revised rate adjustment in this final rule to shippers is approximately $1.2 million (non-discounted). The annual cost of the additional 9.95% rate adjustment to shippers in this final rule is approximately $183,607 (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 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 final rule over a five-year period instead of a ten-year period. The total five-year (2008–2012) present value cost estimate of this final rule to shippers is $5.2 million discounted at a seven percent discount rate and $5.6 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 industry will incur costs from this rule during the 2008 Great Lakes shipping season.

A. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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.

Entities affected by this rule are 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 final rule, we reviewed recent company size and ownership data from 2006–2007 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 final rule that will 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 certifies under 5 U.S.C. 605(b) that this rule will not have a significant impact on a substantial number of U.S. small entities.

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 rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email Mr. Paul Wasserman whose contact information appears under **FOR FURTHER INFORMATION CONTACT** at the beginning of this preamble. 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). The Coast Guard will not retaliate against any small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 effect 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 Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction 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, this rule is 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 checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 401

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

V. Words of Issuance and Proposed Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 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	$14.94 per Kilometer or $26.44 per mile[1].
Each Lock Transited	$331[1].
Harbor Movage	$1084[1].

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $723, and the maximum basic rate for a through trip is $3,174.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$780
Docking or Undocking	744

■ 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	$688	$688
Docking or Undocking	531	531
Any Point on the Niagara River below the Black Rock Lock	N/A	1,354

(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	$2,105	$1,244	$2,733	$2,105	N/A
Port Huron Change Point	[1] 3,665	[1] 4,247	2,753	2,142	$1,522
St. Clair River	[1] 3,665	N/A	2,753	2,753	1,244
Detroit or Windsor Or the Detroit River	2,105	2,732	1,244	N/A	2,753
Detroit Pilot Boat	1,522	2,105	N/A	N/A	2,753

[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	$554
Docking or Undocking	526

(b) Area 7 (Designated Waters):

Area	De tour	Gros cap	Any harbor
Gros Cap	$1,976	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	1,976	$744	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	1,656	744	N/A
Sault Ste. Marie, MI	1,656	744	N/A
Harbor Movage	N/A	N/A	$744

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$536
Docking or Undocking	509

§ 401.420 [Amended]

■ 5. In § 401.420—

■ a. In paragraph (a), remove the number ''$93'' and add, in its place, the number ''$102''; and remove the number ''$1,459'' and add, in its place, the number ''$1,604''.

■ b. In paragraph (b), remove the number ''$93'' and add, in its place, the number ''$102''; and remove the number ''$1,459'' and add, in its place, the number ''$1,604''.

■ c. In paragraph (c)(1), remove the number ''$552'' and add, in its place, the number ''$606''.

■ d. In paragraph (c)(3), remove the number ''$93'' and add, in its place, the number ''$102''; and remove the number ''$1,459'' and add, in its place, the number ''$1,604''.

§ 401.428 [Amended]

■ 6. In § 401.428, remove the number ''$562'' and add, in its place, the number ''$618''.

Dated: December 23, 2008.

Brian M. Salerno,

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

[FR Doc. E8–31341 Filed 1–2–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–7696–02]

RIN 0648–XM32

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring commercial summer flounder quota to the Commonwealth of Virginia from its 2008 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective December 30, 2008 through December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281–9244, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in§ 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 4,777 lb (2,167 kg) of its 2008 commercial quota to Virginia to cover the summer flounder landings of two North Carolina vessels granted safe harbor in Virginia due to mechanical issues that occurred on the vessels between December 15 and December 16, 2008. The Regional Administrator has determined that the criteria set forth in§ 648.100(d)(3) have been met. The revised quotas for calendar year 2008 are: North Carolina, 2,525,702 lb (1,145,639 kg); and Virginia, 2,019,988 lb (916,251 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 30, 2008.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–31317 Filed 12–30–08; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XM48

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2009 Gulf of Alaska Pollock and Pacific cod Total Allowable Catch Amounts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2009 total allowable catch (TAC) amounts for the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified. This action will ensure the GOA pollock and Pacific cod TACs do not exceed the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (FMP).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 5, 2009, until the effective date of the final 2009 and 2010 harvest specifications for GOA groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 20, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648–XM48, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov*