Dated: October 22, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: October 27, 2009.

Kathleen Sebelius,

Secretary.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2009–0883]

RIN 1625–AB39

Great Lakes Pilotage Rates—2010 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to update the rates for pilotage on the Great Lakes by 5.07% to generate sufficient revenue to cover allowable expenses, target pilot compensation, and return on investment. The proposed update reflects an August 1, 2010 increase in benchmark contractual wages and benefits and an adjustment for inflation. 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 November 30, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2009–0883 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *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.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. Paul M. Wasserman, Chief, Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1929, or by e-mail at *Paul.M.Wasserman@uscg.mil.* If you have 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 to use the Docket Management Facility.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, (USCG–2009–0883), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2009–0883'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments 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 and may change this proposed rule based on your comments.

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,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2009–0883'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. 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 a Privacy Act system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

D. 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**.

II. Abbreviations

AMOU American Maritime Officers Union
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System

NEPA National Environmental Policy Act of 1969
NPRM Notice of Proposed Rulemaking
NVMC National Vessel Movement Center
OMB Office of Management and Budget

III. Background and Purpose

This notice of proposed rulemaking (NPRM) is issued pursuant to Coast Guard regulations in 46 CFR 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 engaged 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 Coast Guard 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. 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 the vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(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 published on April 3, 2006 (71 FR 16501). Since then, rates have been reviewed under Appendix C and adjusted annually: 2007 (72 FR 53158, Sep. 18, 2007); 2008 (interim rule 73 FR 15092, Mar. 21, 2008; final rule 74 FR 220, Jan. 5, 2009); 2009 (74 FR 18669, Jul. 21, 2009). The present rulemaking proposes a rate adjustment for the 2010 shipping season, based on an Appendix C review. At the conclusion of this ratemaking cycle and during the latter portion of the 2010 navigation season, we anticipate publishing an NPRM proposing a rate adjustment based upon an Appendix A 5-year review and full audit of the pilot association books and records.

IV. Discussion 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.

A. Proposed Pilotage Rate Changes—Summarized

The Appendix C to 46 CFR 404 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 2010, and then discusses in detail how the proposed changes were calculated under Appendix C.

We are proposing an increase of 5.07% across all Districts over the last pilotage rate adjustment. This reflects an August 1, 2010, increase in benchmark contractual wages and benefits and an inflation adjustment. This rate increase would not go into effect until August 1, 2010. Actual rate increases vary by Area, and are summarized in Table 1.

TABLE 1—2010 AREA RATE CHANGES

If pilotage service is required in:	Then the proposed percentage increases over the current rate is:
Area 1 (Designated waters)	4.65
Area 2 (Undesignated waters)	5.33
Area 4 (Undesignated waters)	5.47
Area 5 (Designated waters)	4.96
Area 6 (Undesignated waters)	5.27
Area 7 (Designated waters)	4.73
Area 8 (Undesignated waters)	5.17
Overall Rate Change (percentage change in overall prospective unit costs/base unit costs; see Table 18)	5.07

Rates for cancellation, delay, or interruption in rendering services (46 CFR 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 (46 CFR 401.428), have been increased by 5.07% in all Areas.

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 2009 Appendix C review. The Coast Guard also used the most recent union contracts between the American Maritime Officers Union (AMOU) and vessel owners and operators on the Great Lakes to determine target pilot compensation. Bridge hour projections for the 2010 season have been obtained from historical data, pilots, and industry. 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. Also, please note that in previous rulemakings we calculated an expense multiplier for each District. This was unnecessary because Appendix C calculations are based on Area figures, not District figures. District figures, where they are shown in the following tables, now reflect only the arithmetical totals for each of the District's Areas.

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 for the base period. Tables 2 through 4 summarize the Step 1 calculations:

TABLE 2—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total* District One
Base operating expense (less base return element)	$538,155	$547,489	$1,085,644
Base target pilot compensation	+ $1,617,955	+ $981,589	+ $2,599,544
Base return element	+ $10,763	+ $16,425	+ $27,188
Subtotal*	= $2,166,873	= $1,545,503	= $3,712,376
Base bridge hours	÷ 5,203	÷ 5,650	÷ 10,853
Base cost per bridge hour	= $416.47	= $273.54	= $342.06

*As explained in the text preceding Step 1, District totals have been expressed differently from previous rulemakings. This accounts for slight differences between the District totals shown in Table 16 of the 2009 final rule and the District totals shown in this table.

TABLE 3—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total* District Two
Base operating expense	$502,087	$789,202	$1,291,289
Base target pilot compensation	+ $785,271	+ $1,617,955	+ $2,403,226
Base return element	+ $25,104	+ $31,568	+ $56,672
Subtotal	= $1,312,463	= $2,438,725	= $3,751,188
Base bridge hours	÷ 7,320	÷ 5,097	÷ 12,417
Base cost per bridge hour	= $179.30	= $478.46	= $302.10

*See footnote to Table 2.

TABLE 4—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total* District Three
Base operating expense	$814,358	$398,461	$641,580	$1,854,399
Base target pilot compensation	+ $1,570,542	+ $1,078,637	+ $1,374,224	+ $4,023,403
Base return element	+ $32,574	+ $11,954	+ $19,247	+ $63,776
Subtotal	= $2,417,474	= $1,489,052	= $2,035,052	= $5,941,578

TABLE 4—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT THREE—Continued

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total* District Three
Base bridge hours	÷ 13,406	÷ 3,259	÷ 11,630	÷ 28,295
Base cost per bridge hour	= $180.33	= $456.90	= $174.98	= $209.99

*See footnote to Table 2.

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. Tables 5 through 7 show the Step 2 calculations.

TABLE 5—EXPENSE MULTIPLIER, AREAS IN DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Base operating expense	$538,155	$547,489	$1,085,644
Base return element	+ $10,763	+ $16,425	+ $27,188
Subtotal	= $548,918	= $563,914	= $1,112,832
Base target pilot compensation	÷ $1,617,955	÷ $981,589	$2,599,544
Expense multiplier	0.33927	0.57449	n/a

TABLE 6—EXPENSE MULTIPLIER, AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Base operating expense	$502,087	$789,202	$1,291,289
Base return element	+ $25,104	+ $31,568	+ $56,672
Subtotal	= $527,192	= $820,770	= $1,347,962
Base target pilot compensation	÷ $785,271	÷ $1,617,955	$2,403,226
Expense multiplier	0.67135	0.50729	n/a

TABLE 7—EXPENSE MULTIPLIER, AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Base operating Expense	$814,358	$398,461	$641,580	$1,854,399
Base return element	+ $32,574	+ $11,954	+ $19,247	+ $63,776
Subtotal	= $846,932	= $410,415	= $660,828	= $1,918,175
Base target pilot compensation	÷ $1,570,542	÷ $1,078,637	÷ $1,374,224	$4,023,403
Expense multiplier	0.53926	0.38049	0.48087	n/a

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

(a) Determine new target rate of compensation. Target pilot compensation is based on the average annual compensation of first mates and masters on U.S. Great Lakes vessels. For pilots in undesignated waters, we approximate the first mates' compensation and, in designated waters, we approximate the master's 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.

As of May 2009, there are two current AMOU contracts, which we designate Agreement A and Agreement B. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Both Agreement A and Agreement B provide for a 3% wage increase effective August 1, 2010. Under Agreement A, the daily wage rate will be increased from $262.73 to $270.61. Under Agreement B, the daily wage rate will be increased from $323.86 to $333.57.

To calculate monthly wages, we apply Agreement A and Agreement B monthly multipliers of 54.5 and 49.5, respectively, to the daily rate.

Agreement A's 54.5 multiplier represents 30.5 average working days, 15.5 vacation days, 4 days for four weekends, 3 bonus days, and 1.5 holidays. Agreement B's 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 9 months, the length of the Great Lakes shipping season.

Table 8 shows new wage calculations based on Agreements A and B effective August 1, 2010.

TABLE 8—WAGES

Monthly component	Pilots on undesignated waters	Pilots on designated waters (undesignated × 150%)
AGREEMENT A: $270.61 daily rate × 54.5 days	$14,748	$22,123
AGREEMENT A: Monthly total × 9 months = total wages	$132,735	$199,103
AGREEMENT B: $333.57 daily rate × 49.5 days	$16,512	$24,768
AGREEMENT B: Monthly total × 9 months = total wages	$148,608	$222,912

Both Agreements A and B include a health benefits contribution rate of $88.76 effective August 1, 2010. Agreement A includes a pension plan contribution rate of $33.35 per man-day. Agreement B includes a pension plan contribution rate of $43.55 per man-day. Both Agreements A and B provide a 401K employer matching rate, 5% of the wage rate. Neither Agreement A nor Agreement B includes a clerical contribution that appeared in earlier contracts. Per the AMOU, the multiplier used to calculate monthly benefits is 45.5 days.

Table 9 shows new benefit calculations based on Agreements A and B, effective August 1, 2010.

TABLE 9—BENEFITS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$737.42	$1,106.13
Pension = $33.35 × 45.5 days	$1,517.43	$1,517.43
Health = $88.76 × 45.5 days	$4,038.58	$4,038.58
AGREEMENT B:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$825.60	$1,238.40
Pension = $43.55 × 45.5 days	$1,981.53	$1,981.53
Health = $88.76 × 45.5 days	$4,038.58	$4,038.58
AGREEMENT A: Monthly total benefits	= $6,293.42	= $6,662.13
AGREEMENT A: Monthly total benefits × 9 months	= $56,641	= $59,959
AGREEMENT B: Monthly total benefits	= $6,845.71	= $7,258.51
AGREEMENT B: Monthly total benefits × 9 months	= $61,611	= $65,327

TABLE 10—TOTAL WAGES AND BENEFITS

	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A: Wages	$132,735	$199,103
AGREEMENT A: Benefits	+$56,641	+$59,959
AGREEMENT A: Total	= $189,376	= $259,062
AGREEMENT B: Wages	$148,608	$222,912
AGREEMENT B: Benefits	+$61,611	+$65,327
AGREEMENT B: Total	= $210,219	= $288,239

Table 11 shows that approximately one third of U.S. Great Lakes shipping deadweight tonnage operates under Agreement A, with the remaining two thirds operating under Agreement B.

TABLE 11—DEADWEIGHT TONNAGE BY AMOU AGREEMENT

Company	Agreement A	Agreement B
American Steamship Company		815,600
Mittal Steel USA, Inc		38,826
Key Lakes, Inc	361,385	
Total tonnage, each agreement	361,385	854,426
Percent tonnage, each agreement	361,385 ÷ 1,215,811 = 29.7238%	854,426 ÷ 1,215,811 = 70.2762%

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, WEIGHTED

	Undesignated waters	Designated waters
AGREEMENT A:		
Total wages and benefits × percent tonnage	$189,376 × 29.7238% = $56,290	$259,062 × 29.7238% = $77,003
AGREEMENT B:		
Total wages and benefits × percent tonnage	$210,219 × 70.2762% = $147,734	$288,239 × 70.2762% = $202,563
Total weighted average wages and benefits = projected target rate of compensation.	$56,290 + $147,734 = $204,024	$77,003 + $202,563 = $279,566

(b) Determine number of pilots needed. Subject to adjustment by the Coast Guard Director of Great Lakes Pilotage to ensure uninterrupted service, we determine the number of pilots needed for ratemaking purposes 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, we project that vessel traffic in the 2010 navigation season, in all Areas, will remain unchanged from the 2009 projections noted in Table 13 of the 2009 final rule.

Table 13, below, shows the projected bridge hours needed for each Area, and the total number of pilots needed for ratemaking purposes after dividing those figures either by 1,000 or 1,800. As in 2008 and 2009, and for the same reasons, we rounded up to the next whole pilot except in Area 2 where we rounded up from 3.14 to 5, and in Area 4 where we rounded down from 4.07 to 4.

TABLE 13—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2010 bridge hours	Divided by 1,000 (Designated waters) or 1,800 (undesignated waters)	Pilots needed (total = 40)
Area 1	5,203	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	13,406	1,800	8
Area 7	3,259	1,000	4
Area 8	11,630	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 (*see* Table 13) by the projected target rate of compensation (*see* Table 12) for pilots working in that Area. Table 14 shows this calculation.

TABLE 14—PROJECTED TARGET PILOT COMPENSATION

Pilotage area	Pilots needed (total = 40)	Multiplied by target rate of compensation	Projected target pilot compensation
Area 1	6	× $279,566	$1,677,397
Area 2	5	× 204,024	1,020,120

TABLE 14—PROJECTED TARGET PILOT COMPENSATION—Continued

Pilotage area	Pilots needed (total = 40)	Multiplied by target rate of compensation	Projected target pilot compensation
Total, District One	11	n/a	2,697,517
Area 4	4	× 204,024	816,096
Area 5	6	× 279,566	1,677,397
Total, District Two	10	n/a	2,493,493
Area 6	8	× 204,024	1,632,191
Area 7	4	× 279,566	1,118,265
Area 8	7	× 204,024	1,428,167
Total, District Three	19	n/a	4,178,623

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 OPERATING EXPENSE

Pilotage area	Projected target pilot compensation	Multiplied by expense multiplier	Projected operating expense
Area 1	$1,677,397	× 0.33927	= $569,084
Area 2	1,020,120	× 0.57449	= 586,050
Total, District One	2,697,517	n/a	= 1,155,134
Area 4	816,096	× 0.67135	= 547,886
Area 5	1,677,397	× 0.50729	= 850,924
Total, District Two	2,493,493	n/a	= 1,398,810
Area 6	1,632,191	× 0.53926	= 880,177
Area 7	1,118,265	× 0.38049	= 425,493
Area 8	1,428,167	× 0.48087	= 686,767
Total, District Three	4,178,623	n/a	= 1,992,438

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 1.037 inflation factor, reflecting an average inflation rate of 3.7% in ''Midwest Economy—Consumer Prices'' between 2007 and 2008, the latest years for which data are available. Table 16 shows this calculation and the projected total economic cost.

TABLE 16—PROJECTED TOTAL ECONOMIC COST

Pilotage area	A. Projected operating expense	B. Increase, multiplied by inflation factor (= A × 1.037)	C. Projected target pilot compensation	D. Projected total economic cost (= B + C)
Area 1	$569,084	$590,140	$1,677,397	$2,267,537
Area 2	586,050	607,733	1,020,120	1,627,853
Total, District One	1,155,134	1,197,874	2,697,517	3,895,390
Area 4	547,886	568,158	816,096	1,384,253
Area 5	850,924	882,408	1,677,397	2,559,805
Total, District Two	1,398,810	1,450,566	2,493,493	3,944,058
Area 6	880,177	912,744	1,632,191	2,544,935
Area 7	425,493	441,236	1,118,265	1,559,501
Area 8	686,767	712,178	1,428,167	2,140,345
Total, District Three	1,992,438	2,066,158	4,178,623	6,244,781

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

TABLE 17—TOTAL UNIT COSTS

Pilotage area	A. Projected total economic cost	B. Projected 2009 bridge hours	Prospective (total) unit costs (A divided by B)
Area 1	$2,267,537	5,203	$435.81
Area 2	1,627,853	5,650	288.12
Total, District One	3,895,390	10,853	358.92
Area 4	1,384,253	7,320	189.11
Area 5	2,559,805	5,097	502.22
Total, District Two	3,944,058	12,417	317.63
Area 6	2,544,935	13,406	189.84
Area 7	1,559,501	3,259	478.52
Area 8	2,140,345	11,630	184.04
Total, District Three	6,244,781	28,295	220.70
Overall	14,084,230	51,565	273.14

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 IN 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	$435.81	$416.47	4.65
Area 2	288.12	273.54	5.33
Total, District One	358.92	342.06	4.93
Area 4	189.11	179.30	5.47
Area 5	502.22	478.46	4.96
Total, District Two	317.63	302.10	5.14
Area 6	189.84	180.33	5.27
Area 7	478.52	456.90	4.73
Area 8	184.04	174.98	5.17
Total, District Three	220.70	209.99	5.10
Overall	273.14	259.97	5.07

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*

Pilotage	A. Base period rate	B. Percentage change in unit costs	C. Increase in base rate (A × B%)	D. Adjusted rate (A + C, rounded to nearest dollar)
Area		(Multiplying Factor)		
Area 1:		4.65 (1.0465)		
—Basic pilotage	$16.95/km, $29.99/mi		$0.78/km, $1.39/mi	$17.73/km, $31.38/mi.
—Each lock transited	375.47		17.44	393.
—Harbor movage	1,229.41		57.11	1,287.
—Minimum basic rate, St. Lawrence River.	820.04		38.09	858.

TABLE 19—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS*—Continued

Pilotage	A. Base period rate	B. Percentage change in unit costs	C. Increase in base rate (A × B%)	D. Adjusted rate (A + C, rounded to nearest dollar)
Area		(Multiplying Factor)		
—Maximum rate, through trip	3,599.58		167.20	3,767.
Area 2:		5.33 (1.0533)		
—6-hr. period	817.63		43.56	861.
—Docking or undocking	779.92		41.55	821.
Area 4:		5.47 (1.0547)		
—6-hr. period	722.05		39.49	762.
—Docking or undocking	556.46		30.44	587.
—Any point on Niagara River below Black Rock Lock.	1,420.45		77.69	1,498.
Area 5 between any point on or in:		4.96 (1.0496)		
—Toledo or any point on Lake Erie W. of Southeast Shoal.	1,299.46		64.51	1,364.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal.	2,198.99		109.16	2,308.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River.	2,855.20		141.74	2,997.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat.	2,198.99		109.16	2,308.
—Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat).	3,829.80		190.12	4,020.
—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).	4,436.82		220.26	4,657.
—Port Huron Change Point & Detroit River.	2,877.20		142.83	3,020.
—Port Huron Change Point & Detroit Pilot Boat.	2,237.82		111.09	2,349.
—Port Huron Change Point & St. Clair River.	1,590.68		78.97	1,670.
—St. Clair River	1,299.46		64.51	1,364.
—St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat).	3,829.80		190.12	4,020.
—St. Clair River & Detroit River/ Detroit Pilot Boat.	2,877.20		142.83	3,020.
—Detroit, Windsor, or Detroit River.	1,299.46		64.51	1,364.
—Detroit, Windsor, or Detroit River & Southeast Shoal.	2,198.99		109.16	2,308.
—Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal.	2,855.20		141.74	2,997.
—Detroit, Windsor, or Detroit River & St. Clair River.	2,877.20		142.83	3,020.
—Detroit Pilot Boat & Southeast Shoal.	1,590.68		78.97	1,670.
—Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal.	2,198.99		109.16	2,308.
—Detroit Pilot Boat & St. Clair River.	2,877.20		142.83	3,020.
Area 6:		5.27 (1.0527)		
—6-hr. period	622.93		32.84	656.
—Docking or undocking	591.72		31.20	623.
Area 7 between any point on or in:		4.73 (1.0473)		
—Gros Cap & De Tour	2,442.98		115.57	2,559.
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour.	2,442.98		115.57	2,559.

TABLE 19—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS*—Continued

Pilotage	A. Base period rate	B. Percentage change in unit costs	C. Increase in base rate (A × B%)	D. Adjusted rate (A + C, rounded to nearest dollar)
Area		(Multiplying Factor)		
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap.	920.03		43.52	964.
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour.	2,047.67		96.87	2,145.
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap.	920.03		43.52	964.
—Sault Ste. Marie, MI & De Tour.	2,047.67		96.87	2,145.
—Sault Ste. Marie, MI & Gros Cap.	920.03		43.52	964.
—Harbor movage	920.03		43.52	964
Area 8:		5.17 (1.0517)		
—6 hr. period	549.44		28.42	578.
—Docking or undocking	522.20		27.02	549.

* 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 5.07% across all areas.

V. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

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 and Purpose" 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 annual review for this rulemaking, we are proposing an adjustment to the pilotage rates for the 2010 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment.

This proposed rule would implement a 5.07 percent overall rate adjustment for the Great Lakes system over the current rate as adjusted in the 2009 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.

In general, we expect an increase in pilotage rates for a certain area to result in additional costs for shippers using pilotage services in that area, while a decrease would result in a cost reduction or savings for shippers in that area. This proposed rule would result in a distributional effect that transfers payments (income) from affected shippers (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. We found a 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 used 2006–2008 vessel arrival data from the Coast Guard's Marine Information for 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 2006–2008 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from the district pilotage revenues. These revenues represent the direct and indirect costs (''economic 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 additional impact (costs or savings) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs based on the 2009 rate adjustment and the total projected revenue needed to cover costs in this proposed rule for 2010. Table 20 details additional costs or savings by area and district.

TABLE 20—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF PROPOSED RULE ($U.S.; NON-DISCOUNTED)[1]

	Total projected expenses in 2009	Proposed rate change	Total projected expenses in 2010[2]	Additional revenue or cost of this rulemaking[3]
Area 1	$2,166,873	1.0465	$2,267,537	$100,664
Area 2	1,545,503	1.0533	1,627,853	82,350
Total, District One	3,712,376		3,895,390	183,014
Area 4	1,312,463	1.0547	1,384,253	71,791
Area 5	2,438,725	1.0496	2,559,805	121,080
Total, District Two	3,751,188		3,944,058	192,870
Area 6	2,417,474	1.0527	2,544,935	127,461
Area 7	1,489,052	1.0473	1,559,501	70,449
Area 8	2,035,052	1.0517	2,140,345	105,293
Total, District Three	5,941,578		6,244,781	303,203
All Districts	13,405,142		14,084,230	679,088

[1] Some values may not total due to rounding.
[2] Rate changes are calculated for areas only. District totals reflect arithmetic totals and are for informational and discussion purposes. See discussion in proposed rule for further details.
[3] Additional Revenue or Cost of this Rulemaking = 'Total Projected Expenses in 2010' – 'Total Projected Expenses in 2009'.

After applying the rate change in this proposed rule, the resulting difference between the projected revenue in 2009 and the projected revenue in 2010 is the annual impact to shippers from this proposed rule. This figure will be equivalent to the total additional payments or savings that shippers will incur for pilotage services from this rule. As discussed earlier, we consider a reduction in payments to be a cost savings.

The impact of the rate adjustment in this proposed rule to shippers varies by area and district. The annual non-discounted costs of the rate adjustments in Districts 1 and 2 would be approximately $183,000 and $193,000, respectively, while District 3 would experience an annual non-discounted cost of approximately $300,000. To calculate an exact cost or savings 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 would pay more and some would pay less depending on the distance and port arrivals of their vessels' trips. However, the annual cost or savings reported above does capture all of the additional cost the shippers face as a result of the rate adjustment in this rule.

As Table 20 indicates, all areas would experience an increased annual cost due to this proposed rulemaking. The overall impact of the proposed rule would be an additional cost to shippers of just over $679,000 across all three districts, due primarily to an increase in benchmark contractual wages and benefits and an inflation adjustment.

B. 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 people.

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 2006–2008 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 receive revenue from pilotage services. These are the three pilot associations that provide and manage 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. We expect no adverse impact to these entities from this proposed rule since all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard has determined that this proposed rule would not have a significant economic impact on a substantial number of 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer 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 Mr. Paul M. Wasserman, Chief,Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1525, by fax 202–372–1929, or by e-mail at *Paul.M.Wasserman@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).

D. 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.

E. 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.

F. 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.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 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 that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction. 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.

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	$17.73 per Kilometer or $31.38 per mile.[1]
Each Lock Transited	$393.[1]
Harbor Movage	$1287.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $858, and the maximum basic rate for a through trip is $3,767.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$861
Docking or Undocking	821

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	$762	$762
Docking or Undocking	587	587
Any Point on the Niagara River below the Black Rock Lock.	N/A	1,498

(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 point on Lake Erie west of Southeast Shoal	$2,308	$1,364	$2,997	$2,308	N/A
Port Huron Change Point	[1] 4,020	[1] 4,657	3,020	2,349	1,670
St. Clair River	[1] 4,020	N/A	3,020	3,020	1,364
Detroit or Windsor or the Detroit River	2,308	2,997	1,364	N/A	3,020
Detroit Pilot Boat	1,670	2,308	N/A	N/A	3,020

[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	$656
Docking or Undocking	623

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any Harbor
Gros Cap	$2,559	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	2,559	964	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,145	964	N/A
Sault Ste. Marie, MI	2,145	964	N/A
Harbor Movage	N/A	N/A	$964

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$578
Docking or Undocking	549

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number ''$113'' and add, in its place, the number ''$119''; and remove the number ''$1,777'' and add, in its place, the number ''$1,867''.

b. In paragraph (b), remove the number ''$113'' and add, in its place, the number ''$119''; and remove the number ''$1,777'' and add, in its place, the number ''$1,867''.

c. In paragraph (c)(1), remove the number ''$671'' and add, in its place, the number ''$705''.

d. In paragraph (c)(3), remove the number ''$113'' and add, in its place, the number ''$119''; and, also in paragraph (c)(3), remove the number ''$1,777'' and add, in its place, the number ''$1,867''.

§ 401.428 [Amended]

6. In § 401.428, remove the number ''$684'' and add, in its place, the number ''$719''.

Dated: October 26, 2009.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. E9–26212 Filed 10–29–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–09–0117]

RIN 2127–AK42

Federal Motor Vehicle Safety Standards; New Pneumatic and Certain Specialty Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New pneumatic and certain specialty tires,* to change the test pressure for the physical dimensions test for T-type tires (temporary use spare tires) from 52 pounds per square inch (psi) to 60 psi. A 60-psi test pressure for the physical dimensions test would marginally increase the stringency of the test while harmonizing FMVSS No. 109 with international and voluntary consensus standards. This NPRM responds to a petition for rulemaking from the Tire & Rim Association.

DATES: You should submit your comments early enough to ensure that the Docket receives them no later than December 29, 2009.

ADDRESSES: You may submit comments (identified by the DOT Docket ID Number above) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail: Docket Management Facility:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, *see* the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or at *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Santiago Navarro or George Soodoo, NHTSA Office of Rulemaking, telephone 202–366–2720, fax 202–493–2739. For legal issues, you may call Deirdre Fujita, NHTSA Office of Chief Counsel, telephone 202–366–2992, fax 202–366–3820. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Background

a. T-Type Spare Tires

NHTSA regulates ''T-type'' spare tires under FMVSS No. 109, *New pneumatic and certain specialty tires.* A ''T-type'' spare tire refers to a type of spare tire that is manufactured to be used as a temporary substitute by the consumer for a conventional tire that failed. For T-type spare tires, FMVSS No. 109 specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance, and high speed performance. The standard also defines tire load ratings and specifies labeling requirements for the tires.

NHTSA amended FMVSS No. 109 to permit the manufacture of T-type (then known as ''60-psi'') spare tires in 1977, describing them as ''differ[ing] substantially in specification and construction from conventional tires * * * [with] a higher inflation pressure (60 psi), different dimensions, and a shorter treadwear life than conventional tires.'' [1] The agency adopted endurance and high-speed performance tests, strength requirements, a resistance to bead unseating test, and a physical dimensions test, which were appropriate for the temporary use tires. Today's NPRM proposes an amendment to the physical dimensions test.

b. Physical Dimensions Test

The purpose of the physical dimensions test is to measure the tire's growth under inflated conditions and to determine if it is within allowable growth limits. If a tire exceeds allowable growth limits in the physical dimensions test, that indicates that there could be a safety risk from that tire not matching well with its rim, or not fitting well with the vehicle to which it is attached. Either of these mis-matches could present safety risks.

All T-type tires must comply with growth limits as specified by S4.2.2.2 of FMVSS No. 109, which states that the tire's actual section width and overall width may not exceed the specified section width [2] by more than 7 percent or 10 millimeters (0.4 inches),

[1] 42 FR 12869, 12870 (March 7, 1977).

[2] S4.2.2.2 states that the measured section width ''shall not exceed the section width *specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a) or in one of the publications described in S4.4.1(b) for its size designation and type* * * *.'' (Emphasis added.) The ''publications described in S4.4.1(b)'' refer to the year books published by various tire manufacturer associations, such as T&RA. As a practical matter, individual tire manufacturers generally submit section width information to associations like T&RA for inclusion in the year books, rather than submitting such information directly to NHTSA, although FMVSS No. 109 allows the latter option.