C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

F. Executive Order 13132: Federalism

This rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: January 9, 2018.

Barry N. Breen,

Principal Deputy Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2018–00623 Filed 1–17–18; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401 and 404

[USCG–2017–0903]

RIN 1625–AC40

Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with the Great Lakes Pilotage Act of 1960, the Coast Guard proposes new base pilotage rates and surcharges for the 2018 shipping season. Additionally, the Coast Guard is proposing several changes to the Great Lakes pilotage ratemaking methodology. These additional proposed changes include creating clear delineation between the Coast Guard's annual rate adjustments and the Coast Guard's requirement to conduct a full ratemaking every five years; the adoption of a revised compensation benchmark; reorganization of the text regarding the staffing model for calculating the number of pilots needed; and certain editorial changes.

DATES: Comments and related material must be submitted to the online docket via *https://www.regulations.gov,* or reach the Docket Management Facility, on or before February 20, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0903 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section of this document for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or

email Mr. Michael Moyers, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1553, email *Michael.S.Moyers@uscg.mil,* or fax 202–372–1914.

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I. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions. Documents mentioned in this proposed rule, and all public comments, are available in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice.*

We are not planning to hold a public meeting but will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

APA American Pilots Association
AMOU American Maritime Officers Union
CATEX Unique Categorical Exclusions for the U.S. Coast Guard
CFR Code of Federal Regulations
CPA Certified public accountant
DHS Department of Homeland Security
FOMC Federal Open Market Committee
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canadian)
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
RA Regulatory analysis
SBA Small Business Administration
§ Section symbol
The Act Great Lakes Pilotage Act of 1960
U.S.C. United States Code

III. Executive Summary

Pursuant to the Great Lakes Pilotage Act of 1960 (''the Act''),[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes—including setting the rates for pilotage services and adjusting them on an annual basis. The rates, which currently range from $218 to $601 per pilot hour (depending on the specific area where pilotage service is provided), are paid by shippers to pilot associations. The three pilot associations, which are the exclusive source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate working pilots, and train new pilots. We have developed a ratemaking methodology in accordance with our statutory requirements and regulations. Our ratemaking methodology calculates the revenue needed for each pilotage association (including operating expenses, compensation, and infrastructure needs), and then divides that amount by the expected shipping traffic over the course of the year to produce an hourly rate. This process is currently effected through a 10-step methodology and supplemented with surcharges, which are explained in detail in this notice of proposed rulemaking (NPRM).

In this NPRM, we are proposing to make modifications to the ratemaking methodology and proposing new pilotage rates for 2018 based on the new proposed methodology. The proposed modifications to the ratemaking methodology consist of a new compensation benchmark, organizational changes, and clarifications. We are proposing a new compensation benchmark to comply with a recent court decision holding that the Coast Guard had not adequately justified the previous benchmark, established in the 2016 rulemaking, which set compensation at the level of Canadian wages plus ten percent.[2] From an organizational standpoint, we propose to move the discussion of the staffing model from its current location in title 46 of the Code of Federal Regulation (CFR) 404.103 (as part of ''Step 3'' of the ratemaking process), to the general regulations governing pilotage in 46 CFR 401.220(a). For clarification purposes, we are proposing to set forth separate regulatory paragraphs detailing the differences between how we undertake an annual adjustment of the pilotage rates, and a full reassessment of the rates, which must be undertaken once every 5 years.

As part of our annual review, we are proposing in this NPRM new rates for the 2018 shipping season. Based on the ratemaking model discussed in this NPRM, we are proposing the rates shown in Table 1.

[1] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

[2] We have included the court's opinion in the docket at USCG–2017–0903.

TABLE 1—CURRENT AND PROPOSED PILOTAGE RATES ON THE GREAT LAKES

Area	2017 pilotage rate	Proposed 2018 pilotage rate
St. Lawrence River	$601	$622
Lake Ontario	408	424
Navigable waters from Southeast Shoal to Port Huron, MI	580	553
Lake Erie	429	454
St. Mary's River	514	517
Lakes Huron, Michigan, and Superior	218	253

This proposed rule is not economically significant under E.O. 12866. This proposed rule would impact 49 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 215 oceangoing vessels that transit the Great Lakes annually. The estimated overall annual regulatory economic impact of this rate change is a net increase of $1,162,401 in payments made by shippers from the 2017 shipping season. Because we must review, and, if necessary, adjust rates each year, we analyze these as single year costs and do not annualize them over 10 years. This rule does not affect the Coast Guard's budget or increase Federal spending. Section IX of this preamble discusses the regulatory impact analyses of this proposed rule.

IV. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''), which requires U.S. vessels operating ''on register'' and foreign merchant vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[3] For the U.S. Registered Great Lakes Pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.''[4] The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. The Act requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[5] The purpose of this NPRM is to propose new changes to the methodology in projecting pilotage rates as well as revised pilotage rates and surcharges. Our goals for this and all future rates are to ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to maintain infrastructure. Additionally, we believe that the new methodology will increase transparency and predictability in the ratemaking process and ensure that annual adjustments of rates are completed in a timely manner.

V. Background

Pursuant to the Great Lakes Pilotage Act, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority, regulates shipping practices and pilotage rates on the Great Lakes. Under Coast Guard regulations, all U.S. vessels sailing on register and all non-Canadian, foreign merchant vessels (often referred to as ''salties''), are required to engage U.S. or Canadian pilots during their transit through regulated waters. United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not subject to the Act.[6] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes, and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services.

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 the Great Lakes Pilotage Office (''the Director'') to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilotage Association provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilotage Association provides pilotage services in District Three, which includes all U.S. waters of the St. Mary's River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into ''designated'' and ''undesignated'' areas. Designated areas are classified as such by Presidential Proclamation[7] to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Undesignated areas, on the other hand, are open bodies of water, and thus are not subject to the same pilotage requirements. While working in those undesignated areas, pilots must ''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.''[8] As such, pilotage rates in designated areas are higher than those in undesignated areas.

[3] See 46 U.S.C. 9301(2) and 9302(a)(1).

[4] See 46 U.S.C. 9303(f).

[5] Department of Homeland Security (DHS) Delegation No. 0170.1, para. II (92.f).

[6] See 46 U.S.C. 9302. A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[7] Presidential Proc. 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960*, December 22, 1960.

[8] 46 U.S.C. 9302(a)(1)(B).

TABLE 2—AREAS OF THE GREAT LAKES AND SAINT LAWRENCE SEAWAY

District	Pilotage association	Designation	Area number [9]	Area name [10]
One	Saint Lawrence Seaway Pilotage Association.	Designated	1	St. Lawrence River.
		Undesignated	2	Lake Ontario.
Two	Lake Pilotage Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI.
		Undesignated	4	Lake Erie.
Three	Western Great Lakes Pilotage Association.	Designated	7	St. Mary's River.
		Undesignated	6	Lakes Huron and Michigan.
		Undesignated	8	Lake Superior.

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot associations is responsible for funding its own operating expenses, maintaining infrastructure, acquiring and implementing technological advances, training personnel/partners and pilot compensation. We developed a 10-step ratemaking methodology to derive a pilotage rate that covers these expenses based on the estimated amount of traffic. In short, the methodology is designed to measure how much revenue each pilotage association will need to cover expenses and provide competitive compensation to working pilots. The Coast Guard then divides that amount by the historical average traffic transiting through the district. We recognize that in years where traffic is above average, pilot associations will take in more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours with adequate rest between assignments to ensure retention of highly-trained personnel.

Over the past 2 years, the Coast Guard has made major adjustments to the Great Lakes pilotage ratemaking methodology. In 2016, we made significant changes to the methodology, moving to an hourly billing rate for pilotage services and changing the compensation benchmark to a more transparent model. In 2017, we added additional steps to the ratemaking methodology, including new steps that will accurately account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 of this preamble). The current methodology, which was finalized in the August 31, 2017 **Federal Register** (82 FR 41466), is designed to accurately capture all the costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately, and accurately, compensates pilots and covers expenses. The Coast Guard summarizes the current methodology in the section below.

Summary of Ratemaking Methodology

As stated above, the ratemaking methodology, currently outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate (determined separately for each of the areas administered by the Coast Guard).

In Step 1, ''Recognize previous operating expenses,'' (§ 404.101) we review audited operating expenses from each of the three pilotage associations. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. So in calculating the 2018 rates in this proposal, we are beginning with the audited expenses from calendar year 2015.

While each pilotage association operates in an entire district, we further break down the costs by area. Thus, with regard to operating expenses, we allocate certain operating expenses to undesignated areas, and certain expenses to designated areas. In some cases (*e.g.,* insurance for applicant pilots who operate in undesignated areas only), we can allocate the costs based on where they are actually accrued. In other situations (*e.g.,* general legal expenses), expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecasted from the respective portions of the district.

In Step 2, ''Project operating expenses, adjusting for inflation or deflation,'' (§ 404.102) we develop the 2018 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors used are from the Bureau of Labor Statistics' Consumer Price Index for the Midwest Region, or if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

In Step 3, ''Determine number of pilots needed,'' (§ 404.103) we calculate how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 404.103(a) through (c), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director of the Coast Guard Great Lakes Pilotage Office in approving an appropriate number of credentials for pilots.

For the purpose of the ratemaking calculation, we determine the number of working pilots provided by the pilotage associations (see § 404.103(d)) which is what we use to determine how many pilots need to be compensated via the pilotage fees collected.

In Step 4, ''Determine target pilot compensation benchmark,'' (§ 404.104) we determine the revenue needed for pilot compensation in each area and district. This step contains two processes. In the first process, we calculate the total compensation for each pilot using a ''compensation benchmark.'' Next, we multiply the individual pilot compensation by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation. Because pilots are paid by the associations, but the costs of pilotage is divided up by area for accounting purposes, we assign a certain number of pilots for the designated areas and a certain number of pilots for the undesignated areas for purposes of determining the revenues needed for each area. To make the determination of how many pilots to assign, we use the staffing model designed to determine

[9] Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority (GLPA) and, accordingly, is not included in the United States pilotage rate structure.

[10] The areas are listed by name in 46 CFR 401.405.

the total number of pilots, described in Step 3, above.

In Step 5, ''Project working capital fund,'' (§ 404.105) we calculate a return on investment by adding the total operating expenses (derived in Step 2) and the total pilot compensation (derived in Step 4), and multiply that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the ''working capital fund'' for each area and district.

In Step 6, ''Project needed revenue,'' (§ 404.106) we simply add up the totals produced by the preceding steps. For each area and district, we add the projected operating expense (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''revenue needed.''

In Step 7, ''Initially calculate base rates,'' (§ 404.107) we calculate an hourly pilotage rate to cover the revenue needed calculated in step 6. This step consists of first calculating the 10-year traffic average for each area. Next, we divide the revenue needed in each area (calculated in Step 6) by the 10-year traffic average to produce an initial base rate.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). As this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services.

In Step 8, ''Calculate average weighting factors by area,'' (§ 404.108) we calculate how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates,'' (§ 404.109) we modify the base rates by accounting for the extra revenue generated by the weighting factors. We do this by simply dividing the initial pilotage rate for each area (from Step 7) by the corresponding average weighting factor (from Step 8), to produce a revised rate.

In Step 10, ''Review and finalize rates,'' (§ 404.110) often referred to informally as ''director's discretion,'' we review the revised base rates (from Step 9) to ensure that they meet the goals set forth in the Act and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating pilots fairly, who are trained and rested; and providing appropriate profit for improvements. Because it is our goal to be as transparent as possible in our ratemaking procedure, we use this step sparingly to adjust rates.

Finally, after the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. Currently, we use surcharges to pay for the training of new pilots, rather than incorporating training costs into the overall ''revenue needed'' that is used in the calculation of the base rates. In recent years, we have allocated $150,000 per applicant pilot to be collected via surcharges. This amount is calculated as a percentage of total revenue for each district, and that percentage is applied to each bill. When the total amount of the surcharge has been collected, the pilot associations are prohibited from collecting further surcharges. Thus, in years where traffic is heavier than expected, shippers early in the season could pay more than shippers employing pilots later in the season, after the surcharge cap has been met.

VI. Discussion of Proposed Methodological and Other Changes

For 2018, we are proposing a number of changes to the ratemaking methodology. These changes are both revisions to the rate-setting process, as well as organizational changes that will simplify and streamline rate-setting procedures in future years. While we realize that yearly adjustments of the ratemaking methodology can lead to unpredictability, we believe that modest modifications to the ratemaking methodology in order to improve accuracy, simplify its steps, and make it more transparent complies with our statutory requirement to consider public interest and the costs of providing pilotage services. These proposed changes are intended to provide rate stability and predictability beneficial to the U.S. Great Lakes pilot associations, shippers, cruise ships, and voluntary employment of U.S. registered pilots.[11] Additionally, in this section, we discuss several other proposed changes to the Great Lakes pilotage regulations, which, while related to the annual ratemakings, are not limited to the specific methodological steps.

A. Codification of Compensation Inflation Adjustment

One change we are proposing in this NPRM is to add regulatory text to § 404.104 that would automatically adjust the pilot compensation figure for inflation annually. Under the current regulations, while pilot compensation is determined in Step 4 annually, there is no specific provision that it will change with inflation. This issue is often raised in comments. For example, in the 2016 Great Lakes pilotage rate adjustment final rule,[12] we set target pilot compensation at $326,114 annually. Then, in the 2017 NPRM,[13] we proposed leaving that amount unchanged. This prompted comments stating that leaving the nominal target compensation of pilots unchanged undermined the Coast Guard's stated goal of compensation stability, because the pilots' earning power would not keep up with regional inflation. In the 2017 final rule, we increased the target compensation number by the inflation rate, to the current level of $332,963.[14] In that rule, we stated that ''we intend to adjust the compensation figure for inflation annually in future ratemaking actions, the same way that operating expenses are adjusted for inflation.'' [15]

Based on these considerations, we propose to add regulatory text to § 404.104 to make the adjustment for inflation automatic. This would serve a variety of interests. First, it would improve consistency in our ratemaking procedures. While the operating expenses are automatically adjusted for inflation, compensation is not. This proposed change would treat the two types of expenses equally. Additionally, because the revenue for the working capital fund is based in part on compensation (see the discussion in the Background section of this Preamble), automatically adjusting pilot compensation for inflation would have a similar effect on contributions to the working capital fund.

Automatically adjusting pilot compensation for inflation would improve transparency and efficiency in our ratemaking procedures. Also, replacing the current process with an automatic and predictable inflationary adjustment would increase predictability. As previously stated, we believe this predictability benefits the

[11] In some cases, U.S.-registered vessels that are not required to use a pilot by law will do so voluntarily for business reasons.

[12] See 81 FR 11908 (March 7, 2016).

[13] See 81 FR 72011 (October 19, 2016).

[14] See 82 FR 41466 (August 31, 2017).

[15] *Id.,* at 41483.

U.S. registered pilots who provide the service and those stakeholders who employ the pilots. Given variations in traffic, compensation as a pilot is uncertain, and we believe that this proposed change would reduce some of the uncertainty related to target pilot compensation. It would also increase the efficiency of the ratemaking process by making the inflation adjustment automatic, so that we would be better able to process our annual ratemaking in a timely fashion.

To implement this increase, we propose adding regulatory text to § 404.104 stating that the Director will adjust the previous year's individual target pilot compensation level by BLS CPI for the Midwest Region, or if that is unavailable, the FOMC median economic projections for PCE inflation [16]. See proposed § 404.104(b). The BLS CPI tracks the changes in prices of all goods and services purchased for consumption by urban households. The BLS releases CPI data monthly, for the previous month. The FOMC PCE inflation tracks the projected change in prices of goods and services purchased by consumers throughout the US economy for the current and future years. We note that this would occur only in years in which we conduct an annual review of pilotage rates, and not in years when we conduct a ''full ratemaking, because in those years the target compensation figure is reset and no inflation adjustment is needed.'' [17] We invite comment on the effect of this proposal as well as the particular inflation index chosen to implement it.

B. Relocation of Staffing Model Regulations

Another change that we propose in this NPRM is to relocate the ''staffing model'' regulatory text, currently located in § 404.103(a) through (c). We are not proposing to adjust or modify the regulatory text, but simply move it to § 401.220(a), ''Registration of pilots,'' rather than keep it as part of the ratemaking methodology text. For the reasons below, we believe that this change will both improve the clarity of the regulations and improve the regulatory process. The staffing model informs the Coast Guard's administration of the Great Lakes Pilotage program, but is distinct from the ratemaking methodology. Specifically, the staffing model provides guidance to the Director on implementing the requirement currently in § 401.220(a), which requires the Director to determine the number of pilots needed to assure adequate and efficient pilotage service in the United States waters of the Great Lakes and to provide for equitable participation of United States Registered Pilots with Canadian Registered Pilots.

The current way in which § 404.103, entitled ''Ratemaking Step 3: Determine number of pilots needed,'' is written produces two distinct sets of numbers. In § 404.103(a) through (c), we employ a ''staffing model'' to determine the number of pilots needed in each district to provide safe and reliable pilotage services in periods of high seasonal demand. This staffing model produces a number of pilots for each district that we believe is needed to minimize delays and allow for some instances of double pilotage (that is, where two pilots are employed on a vessel simultaneously because of particularly hazardous conditions). In the 2017 final rule, the staffing model produced a figure of 54 total pilots on the Great Lakes: 17 for District One, 15 for District Two, and 22 for District Three.[18]

The Director of the Great Lakes Pilotage Office is required in § 404.103(d) to project the number of pilots expected to be working in the current year based on the numbers provided by the pilotage associations, as well as the number of applications for pilot positions.[19] As shown by the calculations used in the next, and all subsequent steps of the ratemaking process, the pilot numbers derived under § 404.103(d), not those from the staffing model text in paragraphs (a)–(c), were used to calculate the pilotage rates. The reason that the numbers produced by the text in paragraphs (a)–(c) are not used in the ratemaking is because while the staffing model is related to the annual ratemaking methodology, it is only through its impact on the number derived in paragraph (d). Instead, the function of the staffing model is to provide guidance to the Director regarding the number of pilots needed. While the number of pilots needed, as ascertained by the Director, certainly has an impact on the number of working pilots, the two numbers are not necessarily identical. We also note that, over the past several years, the number of pilots actually working has been significantly lower than the amount the staffing model suggests are needed. While the staffing model itself does not directly affect the ratemaking, the fact that the text appears in § 404.103, rather than as a modifier to § 401.220(a), creates some confusion. To begin, we note that inclusion of the staffing model text in the annual ratemaking section implies that we reevaluate the staffing model every year as part of the annual ratemaking procedure. While this is incorrect, it has led to confusion about the role of the staffing model, and significant resources have been expended by commenters in past years regarding its use and application. We believe part 401 is the best place to locate the staffing model text as it contains many similar items pertaining to pilotage that, while they affect the ratemaking process, are not part of it and do not need to be reanalyzed on an annual basis.

Finally, we note that the movement of the staffing model to § 401.220(a) would have an organizational impact on future pilotage rate regulatory actions. In the past, we included detailed, and sometimes repetitive, calculations of the staffing model in our annual ratemaking publication. However, if we move the staffing model text to part 401, and do not make any changes to the inputs or staffing methodology, we would not include a full analysis of the staffing model in each regulatory document. Instead, we propose to simply certify that the number of pilots working under Step 3 of the ratemaking process was less than or equal to the number of pilots authorized by the regulations in § 401.220. However, in circumstances where the staffing model produced a changed result in the number of pilots needed to ensure safe and reliable pilotage, we would include an analysis of the number of pilots recommended by the staffing model in the proposed rule. In this year's ratemaking, we note that the staffing model analysis remains unchanged from 2017, and for that reason is not repeated here.

For the reasons stated above, we propose moving the current staffing model text, located in § 404.103(a) through (c) to § 401.220(a), where it will be renumbered as § 401.220(a)(1) through (a)(3). The existing text would not be changed in any way other than being relocated, and we are not proposing any changes to the staffing model in this ratemaking.

C. Additional Changes to Ratemaking Steps 3 and 4

Additionally, we are proposing a change to the remaining text of § 404.103. Specifically, we propose to remove the words ''during the first year of the period for which base rates are being established'' from § 404.103(d). This phrase, carried over from previous

[16] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20170920.pdf.*

[17] For more information on this topic, see section VI.D. titled, ''Delineation of full ratemakings and annual reviews'' in this preamble.

[18] See 82 FR 41466, at 41484 (August 31, 2018).

[19] See, for example, table 7, ''Calculations of total compensation,'' 82 FR 41466, at 41483 (August 31, 2017).

years, does not apply under the current methodology where base rates are established annually. We believe that this change would help to improve clarity and regulatory efficiency in future annual ratemakings.

Finally, we are proposing to change the name of the section. The section, currently titled, ''Determine number of pilots needed,'' is misleading, as the number of pilots needed to ensure safe and reliable pilotage is determined by the Director in § 401.220(a). Thus, we propose to change the section heading to ''Estimate number of working pilots,'' to more accurately reflect what we are doing in this step of the ratemaking process. In a related matter, we are also proposing a change to § 404.104 to explicitly establish the relationship between the staffing model and the annual ratemaking. While in the past, the number of pilots has been below the number derived from the staffing model, there is no regulatory text indicating that this is a limiting factor. To eliminate this ambiguity, we propose to add text to § 404.104, ''Ratemaking step 4: Determine target pilot compensation,'' that would limit the total number of working pilots for ratemaking purposes to the maximum number allowed by the staffing model. This does not prohibit pilotage associations from hiring more pilots than the staffing model suggests are needed to handle peak traffic (if, for example, pilots wanted to work fewer hours for less pay, and the Director approved), but it would limit pilotage rates by preventing those extra pilots from being considered in the ratemaking calculations.

D. Delineation of Full Ratemakings and Annual Adjustments

In this NPRM, we are proposing an organizational change to the regulations in part 404 to better delineate the full ratemaking procedure from the interim ratemaking procedure. Pursuant to the Act, we are required to establish new pilotage rates by March 1 of each year.[20] However, the Act sets forth two types of ratemaking procedures. The Act states that the Coast Guard must establish base pilotage rates by a ''full ratemaking'' at least once every 5 years, and that it must ''conduct annual reviews of such base pilotage rates, and make adjustments to such base rates, in each intervening year.'' [21] In order to more clearly effect the Act's mandate, we propose to include in the regulatory text sections that differentiate between a ''full ratemaking'' and an ''interim ratemaking.'' We would announce, in the NPRM of each annual ratemaking, whether we were conducting a full or interim ratemaking procedure (while the Act requires that the Coast Guard perform a full ratemaking at least once every 5 years, we note that it may occur more frequently if circumstances warrant).

We note that the existing regulatory text in part 404 already contains a provision that considers the difference between a full ratemaking and an interim ratemaking. Existing § 404.100, ''Ratemaking and annual reviews in general,'' states that once every 5 years, the Director establishes base pilotage rates by a full ratemaking pursuant to §§ 404.101 through 404.110, and that in ''interim years,'' the Director may adjust rates according to one of several methods (either automatic adjustments, annual adjustments for inflation, or a new full ratemaking).[22] However, after adopting the new ratemaking methodology in 2016, we do not currently have a regulatory provision for implementing the interim ratemaking other than conducting a full ratemaking analysis. With the new methodology, adopted in 2016, refined in 2017, and with the additional changes proposed for 2018, we believe that the ratemaking procedures generally defined in this part can be used in both full and interim ratemaking years, with certain differences, as described below.

The only substantive difference between a full and interim ratemaking concerns Step 4 of the ratemaking procedure, ''Determine target pilot compensation.'' This step of the ratemaking analysis, in which the total compensation for pilots is determined, comprises the majority of the revenue total needed to operate Great Lakes pilotage. In past ratemaking actions, we received numerous comments and substantial amounts of data when considering the ''benchmark'' for pilot compensation. Even in years where we did not propose adjusting the compensation benchmark, we received substantial data about ways in which it could be adjusted. However, we do not believe that it is in the interest of Great Lakes shipping to calculate a new benchmark compensation level every year. Such a system could lead to substantial volatility regarding compensation. This, in turn, could lead to the pilot recruitment and retention problems that affected the Great Lakes region prior to the ratemaking methodology changes introduced in the past few years.

For these reasons, we are proposing regulatory language in part 404 to clarify that the benchmark pilot compensation would only be reconsidered during ''full ratemaking'' years, which occur at least once every 5 years. Conversely, during ''interim years,'' we would not consider changes to the benchmark pilot compensation. Instead, during those years, we would adjust the target compensation according to Bureau of Labor Statistics' Consumer Price Index for the Midwest Region, or if that is not available, the FOMC median economic projections for PCE inflation, allowing compensation to stay in line with inflation. We believe that this system would simplify ratemaking procedures in interim years and better effect the statutory mandate in section 9303(f) of the Act. In this NPRM, we have proposed regulatory changes to § 404.100(b) and (c), as well as in § 404.104(a) and (b), that would enact these changes to the methodology.

E. Other Miscellaneous Changes

We propose several minor editorial changes in this NPRM. In section 404.107, we propose renaming Step 7, currently titled, ''Initially calculate base rates'' to ''Calculate initial base rates'' for style purposes and to make an accompanying edit to the text by changing the words ''initially calculates base rates'' to ''calculates initial base rates'' in the text of that section. We also propose to adjust the reference to the staffing model in Step 7 to account for its relocation in text (proposed section 401.220(a)).

VII. Revised Compensation Benchmark

In this NPRM, the Coast Guard is proposing a new compensation benchmark for pilots on the Great Lakes. It is doing so to comply with a court decision holding that the Coast Guard's existing compensation benchmark, which based on the salaries of Canadian Great Lakes pilot salaries plus a 10% increase, was arbitrary and capricious. We are following the court's decision and are moving to implement a new benchmark in this proposed rule.

When the Coast Guard adopted the existing compensation benchmark in the 2016 annual adjustment, we recognized that the number was based on somewhat uncertain data, and have undertaken a comprehensive, multi-year analysis of pilot compensation practices to develop a more appropriate benchmark.[23] However, as we do not expect to be able to make any proposals based on this study until at least the 2020 rate adjustment, and we cannot continue to

[20] *See* 46 U.S.C. 9303(f).

[21] *Id.*

[22] See 33 CFR 404.100(b)(1) through (b)(3).

[23] See 82 FR 41466 (March 8, 2017) at 41469.

use the existing model, there is a need for an interim benchmark level to be developed on short notice and with limited time to gather new data.

Therefore, the Coast Guard is proposing a new compensation benchmark based, in part, on the previous model of compensation that was used by the Coast Guard prior to the new ratemaking methodology introduced in the 2016 annual ratemaking.[24] Under the previous methodology, each year the Coast Guard gathered contract information from the American Maritime Officers Union (AMOU), and used details from their contracts to estimate rates for Great Lakes pilots. Ultimately, however, the AMOU stopped providing information to the Coast Guard, which was one basis for moving to other models. However, in the context of the previous rate adjustments, the AMOU did provide information up through the 2015 calendar year. Given that in this document, we have proposed to develop a new benchmark compensation level every 5 years, and then index that number for inflation each year in between, we believe the most efficient solution for an interim compensation benchmark is to derive a compensation figure using the 2015 AMOU data, and then apply inflationary adjustments to that data to arrive at an equivalent level for the 2018 shipping season. We note that this method is different than using data for the 2018 AMOU contracts, for which there is no public information and which this proposed compensation benchmark does not utilize. Because the interim benchmark proposed in this NPRM is explicitly based on the terms of the AMOU contract as they existed in 2015, we note that comments that relate to AMOU contract information from years other than 2015 would not be relevant to this proposed compensation benchmark and will not be considered. However, we do request comments on whether we have correctly applied the terms of the 2015 contract, or used correct data, to the calculation of target pilot compensation under this proposed model and note that we may adjust the interim compensation benchmark if we receive validated data relating to total compensation pursuant to the 2015 AMOU contract terms that improves our understanding of that contract.

The data we are using, provided in a letter from the AMOU from October 4, 2013,[25] consists of ''daily aggregate rates'' for two contracts between Great Lakes shipping companies for the services of AMOU mates.[26] These numbers were provided to the Coast Guard as a public comment to be used as a basis for compensation in the 2014 ratemaking procedure. These daily aggregate rates include daily wages, vacation pay, pension plan contributions, and medical plan contributions for AMOU officers. The relevant 2015 numbers include a $1,142.06 aggregate rate for Agreement A,[27] and $1,124.72 aggregate rate for Agreement B,[28] which are the amounts used to calculate the compensation for pilots on designated waters. We note that the while the 2014 ratemaking methodology calculated different compensation targets for pilots in undesignated areas and those in designated areas, the ratemaking methodology used today calculates a single wage rate, so only the numbers used in designated waters would be relevant. We explain how we propose to translate this information into a proposed annual pilot compensation benchmark below.

Despite the fact that the aggregated data in the 2013 AMOU letter is not broken down into specific costs, we believe that the data points provided are generally accurate. Prior to 2014, the Coast Guard received confidential copies of the AMOU contracts with detailed breakdowns of compensation components including wages, medical costs, defined contribution and defined benefit pension costs. The latest contract we have covered the 2011 through the 2015 shipping seasons, which is one reason we believe that basing our interim benchmark on the 2015 season is a reasonable measure, as we have the underlying contract for that season. Using the estimated out-year figures set forth in the 2011 contract, and applying the detailed compensation methodology used in the 2012 Great Lakes Pilotage annual ratemaking final rule,[29] we were able to calculate aggregate figures that were within 1% of the figures provided in the 2013 AMOU letter.[30]

In the notice of proposed rulemaking for the 2014 Great Lakes pilotage annual rate adjustment, we described how we use the daily aggregate rates to develop a total pilot compensation figure. The annual rates included the ''daily wage rate, vacation pay, pension plan contributions, and medical plan contributions.'' [31] We stated that ''because we are interested in annual compensation, we must convert these to daily rates. We use a 270-day multiplier which reflects an average 30-day month, over the 9 months of the average shipping season.'' [32] Subsequently, ''[w]e apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement.'' [33]

After publication of the 2014 Final Rule, the Coast Guard was sued by the three American pilotage associations, in part, because the AMOU aggregate data it had used to calculate the 2014 compensation figures did not include a seasonal bonus component. In that case, the Coast Guard relied on previous aggregate data figures provided by the AMOU in 2012, instead of using the figures provided by the AMOU in its October 4, 2013 public comment, where the AMOU stated that the previous figures were inaccurate. While the court found that the use of the old figures was arbitrary, the use of AMOU aggregate data generally was not disputed.[34] Instead, it was the use of the disavowed aggregate data that was not supported. We intend to correct this by basing our interim methodology on the new figures provided by the AMOU for the year

[24] We note that the 2016 ratemaking significantly overhauled the entire ratemaking process, not just the method for computing the compensation benchmark, and that methodology is still the basis of the current proposed ratemaking process.

[25] We refer to this document as the ''2013 AMOU letter,'' which is available in the docket at USCG–2017–0903, as well as in the docket for the 2014 Great Lakes Pilotage rulemaking, at USCG–2013–0534–0007.

[26] We acknowledge that the American pilotage associations sued the Coast Guard and won in a lawsuit on the 2014 ratemaking regarding the inappropriate use of AMOU daily aggregate rate data. However, that was because in that ratemaking, the Coast Guard did not use the updated daily aggregate rate data provided in the October 4, 2013 letter, but instead relied on older data that the AMOU had explicitly disavowed. In this proposal, we are correcting that mistake by using the updated data. The opinion from the 2014 court case is available on the docket at USCG–2017–0903.

[27] ''Agreement A'' refers to the contract between AMOU and vessels operated by Key Lakes, Inc.

[28] ''Agreement B'' refers to the contract between AMOU and vessels operated by Mittal Steel USA, Inc.

[29] 2012 Rates for Pilotage on the Great Lakes, 77 FR 11752 (February 28, 2012).

[30] Because the out-year figures, including those for 2015, were estimates, we would not expect the 2015 numbers as calculated in 2011 and 2013 to match exactly, as component items such as medical cost expenditures often defy exact predictions. We believe that the very close match between our own calculations and the figures provided by AMOU is strong evidence that the AMOU data accurately accounts for the total compensation of Great Lakes masters and thus provides a reasonable facsimile for Great Lakes pilots.

[31] Great Lakes Pilotage Rates—2014 Annual Review and Adjustment, notice of proposed rulemaking, 78 FR 48374, at 48381(August 8, 2013).

[32] Id.

[33] Id., at 48382.

[34] This was the information AMOU provided to correct what it alleged was inaccurate data the Coast Guard had proposed using. The aggregate data in the 2013 AMOU letter included a comprehensive wage component, which included work days, weekend days, holidays, and the ''seasonal bonus'' days.

2015, which were also contained in the 2013 letter.

To apply the 2015 aggregate data figures to the current ratemaking methodology, we need only use the figures for designated waters. Prior to the 2016 ratemaking, the Coast Guard calculated separate compensation figures for designated and undesignated waters—compensating pilots assigned to designated waters an equivalent rate to masters, while compensating pilots assigned to undesignated waters the equivalent rate of AMOU mates, who are paid considerably less. However, in 2016, the Coast Guard ended the practice of calculating separate compensation figures for pilots on the Great Lakes. In the 2016 Great Lakes pilotage NPRM, we stated that "we see no reasonable basis for discriminating between the target compensation of pilots on the basis of the distinction between designated or undesignated waters. In any waters and in any district, pilots need the same skills, and therefore we propose a single individual target compensation figure across all three districts." [35] As all pilots must be trained to navigate the more-complex designated waters, we believe it is appropriate that they receive the level of compensation associated with that task.

Because of these factors, we believe we can develop an interim benchmark compensation level based on the 2015 AMOU aggregate data for wages in designated waters that has been publically provided. Based on our calculations, the new benchmark compensation figure would be $319,617 per pilot. The numbers are derived as follows:

In the first step of calculating the interim compensation benchmark, shown as Table 3 below, we multiply the daily aggregate rates for Agreement A and Agreement B by 270, the estimated number of days in the shipping season, to derive a seasonal average compensation figure.

TABLE 3—CALCULATION OF SEASONAL RATES BY AGREEMENT

	Aggregate daily rate	Seasonal compensation (aggregate daily rate × 270)
Agreement A	$1,142.06	$308,356
Agreement B	1,124.72	303,674

Next, as stated above, we apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. As shown in Table 4 below, approximately 70% of cargo was carried under the Agreement A contract, while approximately 30% of cargo was carried under the Agreement B contract.

TABLE 4—WEIGHTED AVERAGE OF EACH AGREEMENT

	Tonnage	% Tonnage (total tonnage/ 1,215,811)
Agreement A	361,385	29.7237811
Agreement B	854,426	70.2762189
Total tonnage	1,215,811	100

Third, we develop an average of compensation based on the total compensation under the two contracts, weighting each contract by its percentage of total tonnage. Based on this calculation, we have developed a figure of $305,066 (rounded) for total compensation in 2015.

TABLE 5—CALCULATION OF AVERAGED COMPENSATION

	% Tonnage	Weighted compensation (seasonal compensation × % tonnage) (rounded)
Agreement A—weighted	29.7237811	$91,655
Agreement B—weighted	70.2762189	213,411
Total compensation (Agreement A + B)	100	305,066

[35] Great Lakes Pilotage Rates—2016 Annual Review and Changes to Methodology, 80 FR 54484, at 54490 (September 10, 2015).

Finally, we adjust that figure for inflation. As we propose to do in our overall ratemaking methodology, we use the BLS Consumer Price Index for the Midwest region to inflate to 2016, and FOMC median economic projections for PCE inflation to inflate the total compensation to 2017 and 2018. Based on three years of inflation adjustments, we arrive at the proposed 2018 target compensation figure, which is $319,617 annually.

TABLE 6—INFLATION ADJUSTMENTS—2015 TO 2018

	Inflation (%)	Target compensation
2015 Target Pilot Compensation	....	$305,066
2016 Inflation Adjustment [36]	0.8	307,507
2017 Inflation Adjustment [37]	1.9	313,350
2018 Inflation Adjustment	2.0	319,617

VIII. Discussion of Proposed Rate Adjustments

In this NPRM, based on the proposed updated methodology described in the previous section, we are proposing new pilotage rates for 2018. This section discusses the proposed rate changes using the ratemaking steps provided in 46 CFR part 404, as they would be written according to the proposed revisions discussed above. Here we will detail each step of the ratemaking procedure to show how we arrived at the proposed new rates.

The 2018 ratemaking is an ''annual review,'' rather than a full ratemaking. Thus, for this purpose, we propose using the annual review methodology in § 404.104.

A. Step 1: Recognition of Operating Expenses

Step 1 in our ratemaking methodology requires that we review and recognize the previous year's operating expenses (§ 404.101). To do this, we begin by reviewing the independent accountant's financial reports for each association's 2015 expenses and revenues.[38] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, for example, costs are applied to the undesignated or designated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs that accrued to the pilot associations generally, for example, insurance, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for the three districts are laid out in Tables 7 through 9.

TABLE 7—2015 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2015	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$344,718	$267,669	$612,387
Applicant Pilot subsistence/travel	59,992	88,313	148,305
License insurance	26,976	26,976	53,952
Applicant Pilot license insurance	0	2,271	2,271
Payroll taxes	97,531	61,656	159,187
Applicant Pilot payroll taxes	8,200	12,583	20,783
Other	5,679	5,341	11,020
Total other pilotage costs	543,096	464,809	1,007,905
Pilot Boat and Dispatch Costs:			
Pilot boat expense	134,400	106,064	240,464
Dispatch expense	0	0	0
Payroll taxes	9,688	7,645	17,333
Total pilot and dispatch costs	144,088	113,709	257,797
Administrative Expenses:			
Legal—general counsel	12,388	9,733	22,121
Legal—shared counsel (K&L Gates)	904	710	1,614
Legal—USCG litigation	0	0	0
Insurance	16,261	12,832	29,093
Employee benefits	8,752	6,907	15,659
Payroll taxes	5,628	4,441	10,069
Other taxes	9,447	7,455	16,902
Travel	795	627	1,422
Depreciation/auto leasing/other	55,850	31,763	87,613
Interest	12,337	9,736	22,073

[36] Inflation adjustment from 2015 to 2016 calculated from Bureau of Labor Statistics, CPI—All Urban Consumers for Midwest Urban, found at *https://data.bls.gov/timeseries/CUUR0200SA0?data_tool=Xgtable*.

[37] Inflation to 2017 and 2018 found using Federal Open Market Committee, Summary of Economic Projections, found at *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm*.

[38] These reports are available in the docket for this rulemaking (see *https://www.regulations.gov*, Docket #USCG–2017–0903).

TABLE 7—2015 RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2015	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Dues and subscriptions	15,867	15,513	31,380
Utilities	9,573	461	10,034
Salaries	56,126	44,291	100,417
Accounting/Professional fees	5,254	4,146	9,400
Pilot Training	0	0	0
Applicant Pilot training	0	0	0
Other	9,118	6,446	15,564
Total Administrative Expenses	218,300	155,061	373,361
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	905,484	733,579	1,639,063
Proposed Adjustments (Independent certified public accountant (CPA)):			
Pilot subsistence/travel	0	−2,943	−2,943
Payroll taxes	0	0	0
Applicant Pilot payroll taxes	0	0	0
TOTAL CPA ADJUSTMENTS	0	−2,943	−2,943
Proposed Adjustments (Director):			
Legal—general counsel (corrected number)	904	710	1,614
Legal—general counsel (corrected number)	−12,388	−9,733	−22,121
Legal—shared counsel (K&L Gates) (corrected number)	12,388	9,733	22,121
Legal—shared counsel (K&L Gates) (corrected number)	−904	−710	−1,614
Legal—shared counsel—3% lobbying fee (K&L Gates)	−371	−292	−663
TOTAL DIRECTOR'S ADJUSTMENTS	−371	−292	−663
Total Operating Expenses (OpEx + Adjustments)	905,113	730,344	1,635,457

TABLE 8—2015 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2015	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$163,276	$244,915	$408,191
Applicant Pilot subsistence/travel	0	0	0
License insurance	6,798	10,196	16,994
Applicant Pilot license insurance	0	0	0
Payroll taxes	53,242	79,863	133,105
Applicant Pilot payroll taxes	0	0	0
Other	457	686	1,143
Total other pilotage costs	223,773	335,660	559,433
Pilot Boat and Dispatch Costs:			
Pilot boat expense	175,331	262,997	438,328
Dispatch expense	9,000	13,500	22,500
Employee benefits	74,855	112,282	187,137
Payroll taxes	9,724	14,585	24,309
Total pilot and dispatch costs	268,910	403,364	672,274
Administrative Expenses:			
Legal—general counsel	10,282	15,422	25,704
Legal—shared counsel (K&L Gates)	8,346	12,520	20,866
Legal—USCG litigation	0	0	0
Office rent	26,275	39,413	65,688
Insurance	10,618	15,926	26,544
Employee benefits	23,930	35,896	59,826
Workman's compensation—pilots	47,636	71,453	119,089
Payroll taxes	5,428	8,141	13,569
Other taxes	29,220	43,830	73,050
Depreciation/auto leasing/other	19,757	29,636	49,393
Interest	4,159	6,238	10,397
APA Dues	11,827	17,741	29,568
Utilities	15,850	23,775	39,625
Salaries	51,365	77,048	128,413
Accounting/Professional fees	10,721	16,081	26,802

TABLE 8—2015 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2015	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Pilot Training	0	0	0
Other	11,775	17,662	29,437
Total Administrative Expenses	287,189	430,782	717,971
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	779,872	1,169,806	1,949,678
Proposed Adjustments (Independent CPA):			
Pilot boat costs	−444	−666	−1,110
TOTAL CPA ADJUSTMENTS	−444	−666	−1,110
Proposed Adjustments (Director):			
Legal—shared counsel 3% lobbying fee (K&L Gates)	−250	−376	−626
TOTAL DIRECTOR'S ADJUSTMENTS	−250	−376	−626
Total Operating Expenses (OpEx + Adjustments)	779,178	1,168,764	1,947,942

TABLE 9—2015 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2015	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$457,393	$152,465	$609,858
Applicant pilot subsistence/travel	0		0
License insurance	16,803	5,601	22,404
Payroll taxes	160,509	53,503	214,012
Applicant pilot payroll taxes	0		0
Other	1,546	515	2,061
Total other pilotage costs	636,251	212,084	848,335
Pilot Boat and Dispatch Costs:			
Pilot boat costs	488,246	162,748	650,994
Dispatch costs	128,620	42,873	171,493
Employee benefits	12,983	4,327	17,310
Payroll taxes	14,201	4,734	18,935
Total pilot and dispatch costs	644,050	214,682	858,732
Administrative Expenses:			
Legal—general counsel	16,798	5,599	22,397
Legal—shared counsel (K&L Gates)	18,011	6,004	24,015
Legal—USCG litigation	0		0
Office rent	6,372	2,124	8,496
Insurance	12,227	4,076	16,303
Employee benefits	93,646	31,215	124,861
Payroll Taxes	9,963	3,321	13,284
Other taxes	1,333	445	1,778
Depreciation/auto leasing/other	29,111	9,703	38,814
Interest	3,397	1,132	4,529
APA Dues	22,736	7,579	30,315
Utilities	32,716	10,906	43,622
Salaries	84,075	28,025	112,100
Accounting/Professional fees	19,696	6,565	26,261
Pilot Training	26,664	8,888	35,552
Other	25,228	8,409	33,637
Total Administrative Expenses	401,973	133,991	535,964
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,682,274	560,757	2,243,031
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	−67,933	−22,645	−90,578
Payroll taxes	−14,175	−4,725	−18,901
Other expenses	−4,058	−1,353	−5,411
TOTAL CPA ADJUSTMENTS	−86,166	−28,723	−114,890

TABLE 9—2015 RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2015	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Proposed Adjustments (Director):			
Legal—shared counsel 3% lobbying fee (K&L Gates)	−540	−180	−720
TOTAL DIRECTOR'S ADJUSTMENTS	−540	−180	−720
Total Operating Expenses (OpEx + Adjustments)	1,595,565	531,854	2,127,420

* *Values may not sum due to rounding. District 3 provided the Coast Guard data for Areas 6, 7, and 8. However, the Coast Guard combined areas 6 and 8 to present the operating expenses by designated and undesignated areas.*

B. Step 2: Projection of Operating Expenses

Having ascertained the recognized 2015 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculated inflation using the Bureau of Labor Statistics' data from the Consumer Price Index for the Midwest Region of the United States [39] and reports from the Federal Reserve. Based on that information, the calculations for Step 1 are as follows:

TABLE 10—ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$905,113	$730,344	$1,635,457
2016 Inflation Modification (@0.8%) [40]	7,241	5,843	13,084
2017 Inflation Modification (@1.9%) [41]	17,335	13,988	31,323
2018 Inflation Modification (@2.0%) [42]	18,594	15,004	33,598
Adjusted 2018 Operating Expenses	948,283	765,179	1,713,462

TABLE 11—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$779,178	$1,168,764	$1,947,942
2016 Inflation Modification (@0.8%)	6,233	9,350	15,583
2017 Inflation Modification (@1.9%)	14,923	22,384	37,307
2018 Inflation Modification (@2.0%)	16,007	24,010	40,017
Adjusted 2018 Operating Expenses	816,341	1,224,508	2,040,849

TABLE 12—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$1,595,565	$531,854	$2,127,420
2016 Inflation Modification (@0.8%)	12,765	4,255	17,020
2017 Inflation Modification (@1.9%)	30,558	10,186	40,744
2018 Inflation Modification (@2.0%)	32,778	10,926	43,704
Adjusted 2018 Operating Expenses	1,671,666	557,221	2,228,888

C. Step 3: Estimate Number of Working Pilots

In accordance with the proposed text in § 404.103, we estimated the number of working pilots in each district. Based on input from the Saint Lawrence Seaway Pilots Association, we estimate that there will be 17 working pilots in 2018 in District One. Based on input from the Lakes Pilots Association, we estimate there will be 14 working pilots in 2018 in District Two. Based on input from the Western Great Lakes Pilots Association, we estimate there will be 18 working pilots in 2018 in District Three.

Furthermore, based on the staffing model employed to develop the total number of pilots needed, we assign a certain number of pilots to designated waters, and a certain number to undesignated waters. These numbers are

[39] Available at *https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.*

[40] See *https://data.bls.gov/timeseries/CUUR0200SA0?data_tool=Xgtable.*

[41] See *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm.*

[42] See *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm.*

used to determine the amount of revenue needed in their respective areas.

TABLE 13—AUTHORIZED PILOTS

	District One	District Two	District Three
Maximum number of pilots (per § 401.220(a)) [43]	17	15	22
2018 Authorized pilots (total)	17	14	18
Pilots assigned to designated areas	10	7	4
Pilots assigned to undesignated areas	7	7	14

D. Step 4: Determine Target Pilot Compensation

In this step, we determine the total pilot compensation for each area. Because we are proposing a ''full ratemaking'' this year, we propose to follow the procedure outlined in paragraph (a) of § 404.104, which requires us to develop a benchmark after considering the most relevant currently available non-proprietary information. In accordance with the discussion in Section VII above, the proposed compensation benchmark for 2018 is $319,617 per pilot.

Next, we certify that the number of pilots estimated for 2018 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 17 pilots for District One, 15 pilots for District Two, and 22 pilots for District Three,[44] which is more than or equal to the numbers of working pilots provided by the pilot associations.

Thus, in accordance with proposed § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for each district, as shown in Table 14.

TABLE 14—TARGET PILOT COMPENSATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Target Pilot Compensation	$319,617	$319,617	$319,617
Number of Pilots	10	7	17
Total Target Pilot Compensation	$3,196,170	$2,237,319	$5,433,489

TABLE 15—TARGET PILOT COMPENSATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Target Pilot Compensation	$319,617	$319,617	$319,617
Number of Pilots	7	7	14
Total Target Pilot Compensation	$2,237,319	$2,237,319	$4,474,638

TABLE 16—TARGET PILOT COMPENSATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Target Pilot Compensation	$319,617	$319,617	$319,617
Number of Pilots	14	4	18
Total Target Pilot Compensation	$4,474,638	$1,278,468	$5,753,106

E. Step 5: Calculate Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high grade corporate securities. Using Moody's data, that number is 3.67 percent.[45] By multiplying the two figures, we get the working capital fund contribution for each area, as shown in Table 17.

[43] For a detailed calculation, see 82 FR 41466, table 6 at 41480 (August 31, 2017).

[44] See Table 6 of the 2017 final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[45] Moody's Seasoned Aaa Corporate Bond Yield, average of 2016 monthly data, located at *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.* The Coast Guard uses the most recent complete year of data.

TABLE 17—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$948,283	$765,179	$1,713,462
Total Target Pilot Compensation (Step 4)	3,196,170	2,237,319	5,433,489
Total 2018 Expenses	4,144,453	3,002,498	7,146,951
Working Capital Fund Contribution (Total 2018 Expenses × 3.67%)	152,101	110,192	262,293

TABLE 18—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$816,341	$1,224,508	$2,040,849
Total Target Pilot Compensation (Step 4)	2,237,319	2,237,319	4,474,638
Total 2018 Expenses	3,053,660	3,461,827	6,515,487
Working Capital Fund Contribution (Total 2018 Expenses × 3.67%)	112,069	127,049	239,118

TABLE 19—WORKING CAPITAL FUND CONTRIBUTION FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,671,666	$557,221	$2,228,887
Total Target Pilot Compensation (Step 4)	4,474,638	1,278,468	5,753,106
Total 2018 Expenses	6,146,304	1,835,689	7,981,993
Working Capital Fund Contribution (Total 2018 Expenses × 3.67%)	225,569	67,370	292,939

F. Step 6: Calculate Revenue Needed

We add up all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in Table 20.

TABLE 20—REVENUE NEEDED FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$948,283	$765,179	$1,713,462
Total Target Pilot Compensation (Step 4)	3,196,170	2,237,319	5,433,489
Return on Investment (Step 5)	152,101	110,192	262,293
Total Revenue Needed	4,296,554	3,112,690	7,409,244

TABLE 21—REVENUE NEEDED FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$816,341	$1,224,508	$2,040,849
Total Target Pilot Compensation (Step 4)	2,237,319	2,237,319	4,474,638
Return on Investment (Step 5)	112,069	127,049	239,118
Total Revenue Needed	3,165,729	3,588,876	6,754,605

TABLE 22—REVENUE NEEDED FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,671,666	$557,221	$2,228,888
Total Target Pilot Compensation (Step 4)	4,474,638	1,278,468	5,753,106
Return on Investment (Step 5)	225,569	67,370	292,939
Total Revenue Needed	6,371,873	1,903,059	8,274,933

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, we divide that number by the expected number of hours of traffic to develop an hourly rate. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in each district. Because we are calculating separate figures for designated and undesignated waters, there are two parts for each calculation. The calculations are shown in Tables 23 through 25.

TABLE 23—TIME ON TASK FOR DISTRICT ONE

Year	Undesignated	Designated
2016	6,217	5,434
2015	6,667	5,743
2014	6,853	6,810
2013	5,529	5,864
2012	5,121	4,771
2011	5,377	5,045
2010	5,649	4,839
2009	3,947	3,511
2008	5,298	5,829
2007	5,929	6,099
Average	5,659	5,395

TABLE 24—TIME ON TASK FOR DISTRICT TWO

Year	Undesignated	Designated
2016	6,425	5,615
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
2010	5,565	5,235
2009	3,386	3,017
2008	4,844	3,956
2007	6,223	6,049
Average	5,299	4,919

TABLE 25—TIME ON TASK FOR DISTRICT THREE

Year	Undesignated	Designated
2016	23,421	2,769
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
2010	20,211	2,461
2009	12,520	1,820
2008	14,287	2,286
2007	24,811	5,944
Average	19,294	2,828

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate needed to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in Tables 26 through 28.

TABLE 26—RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue needed (Step 6)	$4,296,554	$3,112,690
Average time on task	5,395	5,659
Initial rate	796	550

TABLE 27—RATE CALCULATIONS FOR DISTRICT TWO

	Designated	Undesignated
Revenue needed (Step 6)	$3,588,876	$3,165,729
Average time on task	4,919	5,299
Initial rate	730	597

TABLE 28—RATE CALCULATIONS FOR DISTRICT THREE

	Designated	Undesignated
Revenue needed (Step 6)	$1,903,059	$6,371,873
Average time on task	2,828	19,294
Initial rate	673	330

H. Step 8: Calculate Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in Tables 29 through 34.

TABLE 29—AVERAGE WEIGHTING FACTOR FOR AREA 1

[District 1, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1.00	31
Class 1 (2015)	41	1.00	41
Class 1 (2016)	31	1.00	31
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 3 (2014)	50	1.30	65

TABLE 29—AVERAGE WEIGHTING FACTOR FOR AREA 1—Continued

[District 1, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 3 (2015)	28	1.30	36.4
Class 3 (2016)	50	1.30	65
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Total	1,732		2,216.35
Average weighting factor (weighted transits/number of transits)		1.28	

TABLE 30—AVERAGE WEIGHTING FACTOR FOR AREA 2

[District 1, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	25	1.00	25
Class 1 (2015)	28	1.00	28
Class 1 (2016)	18	1.00	18
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 3 (2014)	60	1.30	78
Class 3 (2015)	42	1.30	54.6
Class 3 (2016)	28	1.30	36.4
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9
Total	1,651		2,141.6
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 31—AVERAGE WEIGHTING FACTOR FOR AREA 4

[District 2, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	20	1.00	20
Class 1 (2015)	15	1.00	15
Class 1 (2016)	28	1.00	28
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 3 (2014)	8	1.30	10.4
Class 3 (2015)	8	1.30	10.4
Class 3 (2016)	4	1.30	5.2
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Total	1,741		2,289.7
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 32—AVERAGE WEIGHTING FACTOR FOR AREA 5

[District 2, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1.00	31
Class 1 (2015)	35	1.00	35
Class 1 (2016)	32	1.00	32
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1

TABLE 32—AVERAGE WEIGHTING FACTOR FOR AREA 5—Continued

[District 2, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 2 (2016)	380	1.15	437
Class 3 (2014)	20	1.30	26
Class 3 (2015)	0	1.30	0
Class 3 (2016)	9	1.30	11.7
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Total	2,881		3,802
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 33—AVERAGE WEIGHTING FACTOR FOR AREAS 6 AND 8

[District 3, undesignated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Area 6:			
Class 1 (2014)	45	1.00	45
Class 1 (2015)	56	1.00	56
Class 1 (2016)	136	1.00	136
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 3 (2014)	15	1.30	19.5
Class 3 (2015)	8	1.30	10.4
Class 3 (2016)	10	1.30	13
Class 4 (2014)	394	1.45	571.3
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Total for Area 6	2,088		2,700.9
Area 8:			
Class 1 (2014)	3	1.00	3
Class 1 (2015)	0	1.00	0
Class 1 (2016)	4	1.00	4
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 3 (2014)	3	1.30	3.9
Class 3 (2015)	0	1.30	0
Class 3 (2016)	7	1.30	9.1
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85
Class 4 (2016)	204	1.45	295.8
Total for Area 8	1,237		1,633
Combined total	3,325		4,333.9
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 34—AVERAGE WEIGHTING FACTOR FOR AREA 7

[District 3, designated]

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	27	1.00	27
Class 1 (2015)	23	1.00	23
Class 1 (2016)	55	1.00	55
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 3 (2014)	4	1.30	5.2
Class 3 (2015)	0	1.30	0
Class 3 (2016)	6	1.30	7.8

TABLE 34—AVERAGE WEIGHTING FACTOR FOR AREA 7—Continued

(District 3, designated)

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Total	1,412		1,836.65
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in Table 35.

TABLE 35—REVISED BASE RATES

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate/ average weighting factor)
District One: Designated	$796	1.28	$622
District One: Undesignated	550	1.30	424
District Two: Designated	730	1.32	553
District Two: Undesignated	597	1.32	424
District Three: Designated	673	1.30	517
District Three: Undesignated	330	1.30	253

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. Because, as detailed in the discussion sections of this NPRM, the proposed rates incorporate appropriate compensation for enough pilots to handle heavy traffic periods, would cover operating expenses and infrastructure costs, and have taken average traffic and weighting factors into consideration, we believe that they do meet the goal of ensuring safe, efficient, and reliable pilotage. Thus, we are not proposing any alterations to the rates in this step. The final rates are shown in Table 36, and we propose to modify the text in § 401.405(a) to reflect them.

TABLE 36—FINAL RATES

Area	Name	2017 Pilotage rate	Proposed 2018 pilotage rate
District One: Designated	St. Lawrence River	$601	$622
District One: Undesignated	Lake Ontario	408	424
District Two: Undesignated	Lake Erie	429	454
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	580	553
District Three: Undesignated	Lakes Huron, Michigan, and Superior	218	253
District Three: Designated	St. Mary's River	514	517

K. Surcharges

Because there are several applicant pilots in 2018, we are proposing to levy surcharges to cover the costs needed for training expenses. Consistent with previous years, we are proposing to assign a cost of $150,000 per applicant pilot. To develop the surcharge, we multiply the number of applicant pilots by the average cost per pilot to develop a total amount of training costs needed, and then impose that amount as a surcharge to all areas in the respective district, consisting of a percentage of revenue needed. In this year, there are two applicant pilots for District One, one applicant pilot for District Two, and four applicant pilots for District Three. The calculations to develop the surcharges are shown in Table 37. We note that while the percentages are rounded for simplicity, such rounding does not impact the revenue generated, as surcharges can no longer be collected once the surcharge total has been attained.

TABLE 37—SURCHARGE CALCULATIONS

	District One	District Two	District Three
Number of applicant pilots	2	1	4
Total applicant training costs	$300,000	$150,000	$600,000
Revenue needed (Step 6)	$7,409,244	$6,754,605	$8,274,933
Total surcharge as percentage (total training costs/revenue)	4%	2%	7%

IX. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866, ''Regulatory Planning and Review,'' and 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this proposed rule is not a significant regulatory action, this proposed rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled, ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017). A regulatory analysis (RA) follows.

The purpose of this rulemaking is to propose new base pilotage rates and surcharges for training. This proposed rule also makes changes to the ratemaking methodology and revises the compensation benchmark. The last full ratemaking was concluded in 2017.

Table 38 summarizes the regulatory changes that are expected to have no costs, and any qualitative benefits associated with them. The table also includes proposed changes that affect portions of the methodology for calculating the proposed base pilotage rates. While these proposed changes affect the calculation of the rate, the costs of these changes are captured in the changes to the total revenue as a result of the proposed rate change (summarized in Table 39).

TABLE 38—REGULATORY CHANGES WITH NO COST OR COSTS CAPTURED IN THE PROPOSED RATE CHANGE

Proposed change	Description	Basis for no costs	Benefits
Codification of compensation inflation adjustment.	Add regulatory text to § 404.104 to make the adjustment for inflation automatic.	Pilot compensation costs are accounted for in the base pilotage rates.	—Pilot compensation would keep up with regional inflation. —Improves consistency, transparency, and efficiency in our ratemaking procedures.
Target pilot compensation	—Due to the 2016 court opinion on pilot compensation, the Coast Guard is changing the pilot compensation benchmark.	Pilot compensation costs are accounted for in the base pilotage rates.	Improves transparency in our ratemaking procedures.
Relocation of staffing model regulations.	Move the discussion of the staffing model from 46 CFR 404.103 (as part of ''Step 3'' of the ratemaking process), to the general regulations governing pilotage in § 401.420.	We are not proposing to adjust or modify the regulatory text, but simply move it to § 401.220.	Improve the clarity of the regulations and improve the regulatory process.
Delineation of full ratemakings and annual reviews.	Set forth separate regulatory paragraphs detailing the differences between how the Coast Guard undertakes an annual adjustment of the pilotage rates, and a full reassessment of the rates, which must be undertaken once every 5 years.	Change only clarifies that the benchmark level compensation will only be reconsidered during ''full ratemaking'' years.	Simplify ratemaking procedures in interim years and better effect the statutory mandate in section 9303(f) of the Great Lakes Pilotage Act.
Miscellaneous other changes	—Rename the step currently titled ''Initially calculate base rates'' to ''Calculate initial base rates'' for style purposes. —Adjust the reference to the staffing model in Step 7 to account for its relocation in text.	Minor editorial changes in this NPRM that do not impact total revenues.	Provides clarification to regulatory text and the rulemaking.

Table 39 summarizes the affected population, costs, and benefits of the rate changes that are expected to have costs associated with them.

TABLE 39—ECONOMIC IMPACTS DUE TO RATE CHANGES

Proposed change	Description	Affected population	Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 215 vessels journeying the Great Lakes system annually, 49 U.S. Great Lakes pilots, and 3 pilotage associations.	$1,162,401—Due to change in Revenue Needed for 2018 ($23,488,782) from Revenue Needed for 2017 ($22,326,381) as shown in Table 40 below.	—New rates cover an association's necessary and reasonable operating expenses. —Provides fair compensation, adequate training, and sufficient rest periods for pilots. —Ensures the association receives sufficient revenues to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See sections IV and V of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we propose adjusting the pilotage rates for the 2018 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this proposed rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers.

In addition to the increase in payments that would be incurred by shippers in all three districts from the previous year as a result of the proposed rate changes, we propose authorizing a temporary surcharge to allow the pilotage associations to recover training expenses that would be incurred in 2018. For 2018, we anticipate that there will be two applicant pilots in District One, one applicant pilot in District Two, and four applicant pilots in District Three. With a training cost of $150,000 per pilot, we estimate that Districts One, Two, and Three will incur $300,000, $150,000, and $600,000 in training expenses, respectively. These temporary surcharges would generate a combined $1,050,000 in revenue for the pilotage associations. Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the total payments that would be made by shippers during the 2018 shipping season are estimated at approximately $1,162,401 more than the total payments that were estimated in 2017 (Table 40).[46]

A detailed discussion of our economic impact analysis follows.

Affected Population

The shippers affected by these rate changes are those owners and operators of domestic vessels operating ''on register'' (employed in foreign trade) and owners and operators of non-Canadian foreign vessels on routes 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. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

We used billing information from the years 2014 through 2016 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. We found that a total of 387 vessels used pilotage services during the years 2014 through 2016. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS. The number of invoices per vessel ranged from a minimum of 1 invoice per year to a maximum of 108 invoices per year. Of these vessels, 367 were foreign-flagged vessels and 20 were U.S.-flagged. As previously stated, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but they can voluntarily choose to have one.

Vessel traffic is affected by numerous factors and varies from year to year. Therefore, rather than the total number of vessels over the time period, an average of the unique vessels using pilotage services from the years 2014 through 2016 is the best representation of vessels estimated to be affected by the rate proposed in this NPRM. From the years 2014 through 2016, an average of 215 vessels used pilotage services annually.[47] On average, 206 of these vessels were foreign-flagged vessels and 9 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The rate changes resulting from the new methodology would generate costs to industry in the form of higher payments for shippers. We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2017 with the total projected revenues to cover costs in 2018, including any temporary surcharges we have authorized. We set pilotage rates so that pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they

[46] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

[47] Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels utilizing pilotage services in any given year.

have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in revenue from the previous year is the additional cost to shippers discussed in this proposed rule.

The impacts of the proposed rate changes on shippers are estimated from the District pilotage projected revenues (shown in Tables 20 through 22 of this preamble) and the proposed surcharges described in section VIII of this preamble. We estimate that for the 2018 shipping season, the projected revenue needed for all three districts is $22,438,782. Temporary surcharges on traffic in Districts One, Two, and Three would be applied for the duration of the 2018 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations would require an additional $300,000, $150,000, and $600,000 in revenue for applicant training expenses in Districts One, Two, and Three, respectively. This would be an additional cost to shippers of $1,050,000 during the 2018 shipping season. Adding the projected revenue of $22,438,782 to the proposed surcharges, we estimate the pilotage associations' total projected revenue needed for 2018 would be $23,488,782. To estimate the additional cost to shippers from this proposed rule, we compare the 2018 total projected revenues to the 2017 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single year cost rather than annualized over a 10-year period. In the 2017 rulemaking,[48] we estimated the total projected revenue needed for 2017, including surcharges, as $22,326,381. This is the best approximation of 2017 revenues as, at the time of this publication, we do not have enough audited data available for the 2017 shipping season to revise these projections. Table 40 shows the revenue projections for 2017 and 2018 and details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 40—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Revenue needed in 2017	2017 Temporary surcharge	Total 2017 projected revenue	Revenue needed in 2018	2018 Temporary surcharge	Total 2018 projected revenue	Additional costs of this proposed rule
Total, District One	$7,109,019	$0	$7,109,019	$7,409,244	$300,000	$7,709,244	$600,225
Total, District Two	6,633,491	300,000	6,933,491	6,754,605	150,000	6,904,605	(28,886)
Total, District Three	7,233,871	1,050,000	8,283,871	8,274,933	600,000	8,874,933	591,062
System Total	20,976,381	1,350,000	22,326,381	22,438,782	1,050,000	23,488,782	1,162,401

The resulting difference between the projected revenue in 2017 and the projected revenue in 2018 is the proposed annual change in payments from shippers to pilots as a result of the rate change that would be imposed by this rule. The effect of the proposed rate change to shippers varies by area and district. The rate changes, after taking into account the increase in pilotage rates and the addition of temporary surcharges, would lead to affected shippers operating in District One and District Three experiencing an increase in payments of $600,225 and $591,062, respectively, over the previous year, and a decrease in payments of $28,886 in District 2. The overall adjustment in payments would be an increase in payments by shippers of approximately $1,162,401 across all three districts (a 5 percent increase over 2017). Again, because we review and set rates for Great Lakes Pilotage annually, the impacts are estimated as single year costs rather than annualized over a 10-year period.

Table 41 shows the difference in revenue by component from 2017 to 2018.[49] The majority of the increase in revenue is due to the inflation of operating expenses and to the addition of four pilots who were authorized in the 2017 rule. These four pilots are training this year and will become full-time working pilots at the beginning of the 2018 shipping season. They would be compensated at the target compensation of $319,617 per pilot. The addition of these pilots to full working status accounts for $1,278,468 of the increase ($677,898 when also including the effect of decreasing compensation for 45 pilots). The remaining amount is attributed to decreases in the working capital fund and differences in the surcharges from 2017.

TABLE 41—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2017	Revenue needed in 2018	Difference (2018 Revenue–2017 Revenue)
Adjusted Operating Expenses	$5,155,280	$5,983,199	$827,919
Total Target Pilot Compensation	14,983,335	15,661,233	677,898
Working Capital Fund	837,766	794,350	(43,416)
Total Revenue Needed, without Surcharge	20,976,381	22,438,782	1,462,401
Surcharge	1,350,000	1,050,000	(300,000)

[48] The 2017 projected revenues are from the 2017 Great Lakes Pilotage Ratemaking final rule (82 FR 41484 and 41489), Tables 9 and 14.

[49] The 2017 projected revenues are from the 2017 final rule (82 FR 41484 and 41489), tables 9 and 14. The 2018 projected revenues are from tables 20–22 of this NPRM.

TABLE 41—DIFFERENCE IN REVENUE BY COMPONENT—Continued

Revenue component	Revenue needed in 2017	Revenue needed in 2018	Difference (2018 Revenue–2017 Revenue)
Total Revenue Needed, with Surcharge	22,326,381	23,488,782	1,162,401

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on foreign-flagged vessels that would be affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The portion of the trip on the Great Lakes using a pilot is only a portion of the whole trip. The affected vessels are often traveling from a foreign port, and the days without a pilot on the total trip often exceed the days a pilot is needed.

To estimate this impact, we used the 2017 study titled, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges.'' [50] We conducted the study to explore additional frameworks and methodologies for assessing the cost of Great Lakes pilot's ratemaking regulations, with a focus on capturing industry and port level economic impacts. The study also included an analysis of the pilotage costs as a percentage of the total voyage costs that we can use in RAs to estimate the direct impact of changes to the pilotage rates.

The study developed a voyage cost model that is based on a vessel's daily costs. The daily costs included: Capital repayment costs; fuel costs; operating costs (such as crew, supplies, and insurance); port costs; speed of the vessel; stevedoring rates; and tolls. The daily operating costs were translated into total voyage costs using mileage between the ports for a number of voyage scenarios. In the study, the total voyage costs were then compared to the U.S. pilotage costs. The study found that, using the 2016 rates, the U.S. pilotage charges represent 10 percent of the total voyage costs for a vessel carrying grain, and between 8 percent and 9 percent of the total voyage costs for a vessel carrying steel.[51] We updated the analysis to estimate the percentage U.S. pilotage charges represent using the percentage increase in revenues from the years 2016 to 2018. Since the study used 2016 as the latest year of data, we compared the revenues needed in 2018 and 2017 to the 2016 revenues in order to estimate the change in pilotage costs as a percentage of total voyage costs from 2017 to 2018. Table 42 shows the revenues needed for the years 2016, 2017, and 2018.

TABLE 42—REVENUE NEEDED IN 2016, 2017, AND 2018

Revenue component	Revenue needed in 2016 [52]	Revenue needed in 2017 [53]	Revenue needed in 2018
Total Revenue Needed, with Surcharge	$19,103,678	$22,326,381	$23,488,782

From 2016 to 2017, the total revenues needed increased by 17 percent. From 2017 to 2018, the proposed total revenues needed would increase by 5 percent. From 2016 to 2018, the total revenues needed would increase by 23 percent. While the change in total voyage cost would vary by the trip, vessel class, and whether the vessel is carrying steel or grain, we used these percentages as an average increase to estimate the change in the impact. When we increased the pilotage charges by 17 percent from 2016, we found the U.S. pilotage costs represented an average of 11.3 percent of the total voyage costs. We then increased the base 2016 rates by 23 percent. With this proposed rule's rates for 2018, pilotage costs are estimated to account for 11.8 percent of the total voyage costs, or a 0.5 percent increase over the percentage that U.S. pilotage costs represented of the total voyage in 2017.

It is important to note that this analysis is based on a number of assumptions. The purpose of the study was to look at the impact of the U.S. pilotage rates. The study did not include an analysis of the GLPA rates. It was assumed that a U.S. pilot is assigned to all portions of a voyage where he or she could be assigned. In reality, the assignment of a United States or Canadian pilot is based on the order in which a vessel enters the system, as outlined in the Memorandum of Understanding between the GLPA and the Coast Guard.

This analysis only looks at the impact of proposed U.S. pilotage cost changes. All other costs were held constant at the 2016 levels, including Canadian pilotage costs, tolls, stevedoring, and port charges. This analysis estimates the impacts of Great Lakes pilotage rates holding all other factors constant. If other factors or sectors were not held constant but, instead, were allowed to adjust or fluctuate, it is likely that the impact of pilotage rates would be different. Many factors that drive the tonnage levels of foreign cargo on the Great Lakes and St. Lawrence Seaway were held constant for this analysis. These factors include, but are not limited to, demand for steel and grain, construction levels in the regions, tariffs, exchange rates, weather conditions, crop production, rail and alternative route pricing, tolls, vessel size restriction on the Great Lakes and St. Lawrence Seaway, and inland waterway river levels.

Benefits

This proposed rule would allow the Coast Guard to meet the requirements in

[50] The study is available at *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Waterways-and-Ocean-Policy/Office-of-Waterways-and-Ocean-Policy-Great-Lakes-Pilotage-Div/.*

[51] Martin Associates, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges,'' page 33.

[52] The 2016 projected revenues are from the 2016 final rule, 81 FR 11938. Figure 32, projected revenue needed in 2016 plus the temporary surcharge ($17,453,678 + $1,650,000 = $19,103,678).

[53] The 2017 projected revenues are from the 2017 final rule, 82 FR 41484 and 41489, tables 9 and 14.

46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes would promote safe, efficient, and reliable pilotage service on the Great Lakes by: (1) Ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring the association produces enough revenue to fund future improvements. The rate changes would also help recruit and retain pilots, which would ensure a sufficient number of pilots to meet peak shipping demand, which would help reduce delays caused by pilot shortages.

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 effect 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.

For the proposed rule, we reviewed recent company size and ownership data for the vessels identified in the GLPMS and we reviewed business revenue and size data provided by publicly available sources such as MANTA [54] and ReferenceUSA.[55] As described in Section IX.A of this preamble, Regulatory Planning and Review, we found that a total of 387 unique vessels used pilotage services from 2014 through 2016. These vessels are owned by 59 entities. We found that of the 59 entities that own or operate vessels engaged in trade on the Great Lakes affected by this proposed rule, 48 are foreign entities that operate primarily outside the United States. The remaining 11 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) Table of Small Business Size Standards [56] to determine how many of these companies are small entities. Table 43 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

TABLE 43—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
483211	Inland Water Freight Transportation	750 employees.
483212	Inland Water Passenger Transportation	500 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488320	Marine Cargo Handling	$38.5 million.
488330	Navigational Services to Shipping	$38.5 million.
488510	Freight Transportation Arrangement	$15 million.

The entities all exceed the SBA's small business standards for small businesses. Further, these U.S. entities operate U.S.-flagged vessels and are not required to have pilots as required by 46 U.S.C. 9302.

In addition to the owners and operators of vessels affected by this proposed rule, 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 designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 employees in total. We expect no adverse effect on these entities from this proposed rule because all associations would receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we found this proposed rulemaking, if promulgated, would not affect a substantial number of small entities.

Therefore, we certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. 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, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can 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 consult Mr. Mike Moyers, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1533, email *Michael.S.Moyers@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

[54] See *http://www.manta.com/.*

[55] See *http://resource.referenceusa.com/.*

[56] Source: *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.* SBA has established a Table of Small Business Size Standards, which is matched to NAICS industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be considered in order to remain classified as a small business for SBA and Federal contracting programs.

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 proposed rule would not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under E.O. 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in E.O. 13132. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' *See* 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under E.O. 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed rule under E.O. 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 E.O. because it is not a ''significant regulatory action'' under E.O. 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 E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security (DHS) Directive 023–01, Revision (Rev) 01, *Implementation of the National Environmental Policy Act* [DHS Instruction Manual 023–01 (series)] and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule meets the criteria for categorical exclusion (CATEX) under paragraph A3 of Table 1, particularly subparts (a), (b), and (c) in Appendix A of DHS Directive 023–01(series). CATEX A3 pertains to promulgation of rules and procedures that are: (a) Strictly administrative or procedural in nature; (b) that implement, without substantive change, statutory or regulatory requirements; or (c) that implement, without substantive change, procedures, manuals, and other guidance documents. This proposed rule adjusts base pilotage rates and surcharges for administering the 2018 shipping season in accordance with applicable statutory and regulatory mandates, and also proposes several minor changes to the Great Lakes pilotage ratemaking methodology. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

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

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401 and 404 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

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

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Revise paragraph (a) of § 401.220 to read as follows:

§ 401.220 Registration of pilots.

(a) The Director shall determine the number of pilots required to be registered in order to assure adequate and efficient pilotage service in the United States waters of the Great Lakes and to provide for equitable participation of United States Registered Pilots with Canadian Registered Pilots in the rendering of pilotage services. The Director determines the number of pilots needed as follows:

(1) The Director determines the base number of pilots needed by dividing each area's peak pilotage demand data by its pilot work cycle. The pilot work cycle standard includes any time that the Director finds to be a necessary and reasonable component of ensuring that a pilotage assignment is carried out safely, efficiently, and reliably for each area. These components may include but are not limited to—

(i) Amount of time a pilot provides pilotage service or is available to a vessel's master to provide pilotage service;

(ii) Pilot travel time, measured from the pilot's base, to and from an assignment's starting and ending points;

(iii) Assignment delays and detentions;

(iv) Administrative time for a pilot who serves as a pilotage association's president;

(v) Rest between assignments, as required by 46 CFR 401.451;

(vi) Ten days' recuperative rest per month from April 15 through November 15 each year, provided that lesser rest allowances are approved by the Director at the pilotage association's request, if necessary to provide pilotage without interruption through that period; and

(vii) Pilotage-related training.

(2) Pilotage demand and the base seasonal work standard are based on available and reliable data, as so deemed by the Director, for a multi-year base period. The multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

(3) The number of pilots needed in each district is calculated by totaling the area results by district and rounding them to the nearest whole integer. For supportable circumstances, the Director may make reasonable and necessary adjustments to the rounded result to provide for changes that the Director anticipates will affect the need for pilots in the district over the period for which base rates are being established.

* * * * *

■ 3. Revise paragraph (a) of § 401.405 to read as follows:

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $622;

(2) Lake Ontario is $424;

(3) Lake Erie is $454;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $553;

(5) Lakes Huron, Michigan, and Superior is $253; and

(6) The St. Mary's River is $517.

* * * * *

PART 404—GREAT LAKES PILOTAGE RATEMAKING

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

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 5. Revise § 404.100 to read as follows:

§ 404.100 Ratemaking and annual reviews in general.

(a) The Director establishes base pilotage rates by a full ratemaking pursuant to §§ 404.101 through 404.110 of this part, which is conducted at least once every 5 years and completed by March 1 of the first year for which the base rates will be in effect. Base rates will be set to meet the goal specified in § 404.1(a) of this part.

(b) In the interim years preceding the next scheduled full rate review, the Director will adjust base pilotage rates by an interim ratemaking pursuant to §§ 404.101 through 404.110 of this part.

(c) Each year, the Director will announce whether the Coast Guard will conduct a full ratemaking or interim ratemaking procedure.

■ 6. Revise § 404.103 to read as follows:

§ 404.103 Ratemaking step 3: Estimate number of working pilots.

The Director projects, based on the number of persons applying under 46 CFR part 401 to become U.S. Great Lakes registered pilots, and on information provided by the district's pilotage association, the number of pilots expected to be fully working and compensated.

■ 7. Revise § 404.104 to read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark.

(a) In a full ratemaking year, the Director determines base individual target pilot compensation using a compensation benchmark, set after considering the most relevant currently available non-proprietary information. For supportable circumstances, the Director may make necessary and reasonable adjustments to the benchmark.

(b) In an interim year, the Director adjusts the previous year's individual target pilot compensation level by the Bureau of Labor Statistics' Consumer Price Index for the Midwest Region, or if that is unavailable, the Federal Open Market Committee median economic projections for Personal Consumption Expenditures inflation.

(c) The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation computed in paragraph (a) or (b) of this section by the number of pilots projected under § 404.103(d) of this part, or § 401.220(a) of this part, whichever is lower.

■ 8. Revise § 404.107 to read as follows:

§ 404.107 Ratemaking step 7: Calculate initial base rates.

(a) The Director calculates initial base hourly rates by dividing the projected needed revenue from § 404.106 of this part by averages of past hours worked in each district's designated and undesignated waters, using available and reliable data for a multi-year period set in accordance with § 401.220(a) of this part.

Dated: January 11, 2018.

Michael D. Emerson,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2018–00781 Filed 1–17–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2018–0009]

Removing Regulatory Barriers for Vehicles With Automated Driving Systems

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

ACTION: Request for comment (RFC).

SUMMARY: NHTSA seeks public comments to identify any regulatory barriers in the existing Federal Motor Vehicle Safety Standards (FMVSS) to the testing, compliance certification and compliance verification of motor vehicles with Automated Driving Systems (ADSs) and certain unconventional interior designs. NHTSA is focusing primarily, but not exclusively, on vehicles with ADSs that lack controls for a human driver; *e.g.,* steering wheel, brake pedal or accelerator pedal. The absence of manual driving controls, and thus of a human driver, poses potential barriers to testing, compliance certification and compliance verification. For example, many of the FMVSS refer to the ''driver'' or ''driver's seating position'' in specifying where various vehicle features and systems need to be located so that they can be seen and/or used by a person sitting in that position. Further, the compliance test procedures of some FMVSS depend on the presence of such things as a human test driver who can follow instructions on test driving maneuvers or a steering wheel that can be used by an automated steering machine. NHTSA also seeks comments on the research that would be needed to determine how to amend the FMVSS in order to remove such barriers, while retaining those existing safety requirements that will be needed and appropriate for those vehicles. In all cases, the Agency's goal would be to ensure the maintenance of currently required levels of safety performance. These comments will aid the Agency in setting research priorities as well as inform its subsequent actions to lay a path for innovative vehicle designs and technologies that feature ADSs.

DATES: Comments are due no later than March 5, 2018.

ADDRESSES: Comments must refer to the docket number above and be submitted by one of the following methods:

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

Regardless of how you submit your comments, you must include the docket number identified in the heading of this notice.

Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* Please see the ''Privacy Act'' heading below.

You may call the Docket Management Facility at 202–366–9324.

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. We will continue to file relevant information in the Docket as it becomes available.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* 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.).

FOR FURTHER INFORMATION CONTACT:

For research issues, John Harding, Intelligent Technologies Research Division, Office of Vehicle Crash Avoidance and Electronic Controls Research, telephone: 202–366–5665, email: *John.Harding@dot.gov;*

For rulemaking issues, David Hines, Director, Office of Crash Avoidance Standards, telephone 202–366–1810, email *David.Hines@dot.gov;*

For legal issues, Stephen Wood, Assistant Chief Counsel, Vehicle Rulemaking and Harmonization, Office of Chief Counsel, 202–366–2992, email *Steve.Wood@dot.gov.*

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I. Overview

NHTSA wants to avoid impeding progress with unnecessary or unintended regulatory barriers to motor vehicles that have Automated Driving Systems (ADS) and unconventional designs, especially those with unconventional interior designs. These barriers may complicate or may even make impossible the testing and certification of motor vehicles. At this stage, the Agency is primarily, but not exclusively, concerned with vehicles with ADSs that do not have the means for human driving, *e.g.,* a steering wheel and brake and accelerator pedals. NHTSA is also interested in the additional testing and certification problems for vehicles with ADSs and with seating or other systems that have multiple modes, such as front seats that rotate. Some FMVSS, therefore, may pose barriers to the testing and certification of these vehicles.

To enable vehicles with ADSs and with unconventional interiors while maintaining those existing safety requirements that will be needed and appropriate for those vehicles, NHTSA is developing plans and proposals for removing or modifying existing regulatory barriers to testing and compliance certification in those areas for which existing data and knowledge are sufficient to support decision-making. In other areas, plans and proposals cannot be developed until the completion of near term research to determine how to revise the test procedures for those vehicles. In all