

Commodity	Parts per million
Bean, dry, seed .....	0.1
Beet, sugar, roots .....	0.05
Beet, sugar, tops .....	1
Coffee, green bean .....	0.1
Cotton, undelinted seed .....	0.1
Cotton, hulls .....	0.3
Peanut .....	0.05
Pecan .....	0.5
Sorghum, grain, bran .....	0.5
Sorghum, grain, grain .....	0.2
Sorghum, grain, stover .....	0.5
Soybean, seed .....	0.02
Sugarcane, cane .....	0.02
Sweet potato, roots .....	0.1

\* \* \* \* \*

[FR Doc. 2012-18508 Filed 7-31-12; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 401

[USCG-2012-0409]

RIN 1625-AB89

#### Great Lakes Pilotage Rates—2013 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes rate adjustments for pilotage services on the Great Lakes, which were last amended in February 2012. The proposed adjustments would establish new base rates and are made in accordance with a required full ratemaking procedure. The proposed update reflects changes in benchmark contractual wages and benefits and an adjustment for inflation. This rulemaking promotes the Coast Guard's strategic goal of maritime safety.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before October 1, 2012 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2012-0409 using any one of the following methods:

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

(2) *Fax:* 202-493-2251.

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

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

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG-WWM-2), Coast Guard; telephone 202-372-2037, email [Todd.A.Haviland@uscg.mil](mailto:Todd.A.Haviland@uscg.mil), or fax 202-372-1909. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

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#### I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0409), indicate the specific section of this document to which each comment applies, and provide a reason for each

suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert "USCG-2012-0409" in the "Search" box. Click on "Submit a Comment" in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

##### B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, insert "USCG-2012-0409" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

##### D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If

we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**II. Abbreviations**

- AMOU American Maritime Officers Union
- CFR Code of Federal Regulations
- CPI Consumer Price Index
- FR **Federal Register**
- MISLE Marine Information for Safety and Law Enforcement
- NAICS North American Industry Classification System
- NPRM Notice of proposed rulemaking
- OMB Office of Management and Budget
- ROI Return on Investment
- § Section symbol
- U.S.C. United States Code

**III. Basis and Purpose**

The basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (“the Act”) (46 U.S.C. Chapter 93), which requires U.S. vessels operating “on register”<sup>1</sup> and foreign vessels to use U.S. registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302(a)(1). The Act requires the Secretary of Homeland Security to “prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.” Rates must be established or reviewed and adjusted each year, not later than March 1. Base rates must 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 adjusted if necessary. 46 U.S.C. 9303(f). The Secretary’s duties and authority under the Act have been delegated to the Coast Guard. Department of Homeland Security Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of Title 46, Code of Federal Regulations (CFR). Procedures for use in establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

The purpose of this rulemaking is to establish new base pilotage rates, using the 46 CFR part 404, Appendix A, methodology.

**IV. Background**

The vessels affected by this rulemaking are engaged in foreign trade

<sup>1</sup> “On register” means that the vessel’s certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

upon the U.S. waters of the Great Lakes. U.S. and Canadian “Lakers,”<sup>2</sup> which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage to operate a pilotage pool. It is important to note that, while we set rates, we do not control the actual number of pilots an association maintains, so long as the association is able to provide safe, efficient, and reliable pilotage service. Also, we do not control the actual compensation that pilots receive. The actual compensation is determined by each of the three district associations, which use different compensation practices.

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

This rulemaking is a full ratemaking to establish new base pilotage rates, using the 46 CFR part 404, Appendix A, methodology. The last full ratemaking established the current base rates in 2012 (Final Rule, 77 FR 11752, February 28, 2012). Among other things, the Appendix A methodology requires us to review detailed pilot association financial information, and we contract with independent accountants to assist in that review. We have now completed our review of the independent

<sup>2</sup> A “Laker” is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

accountant’s 2010 financial reports. The comments by the pilot associations on those reports and the independent accountant’s final findings are discussed in our document entitled “Summary—Independent Accountant’s Report on Pilot Association Expenses, with Pilot Association Comments and Accountant’s Responses,” which appears in the docket.

**V. Discussion of Proposed Rule**

*A. Summary*

We propose establishing new base pilotage rates in accordance with the methodology outlined in Appendix A to 46 CFR part 404. The proposed new rates would be established by March 1, 2013 and effective August 1, 2013. They would average approximately 1.87 percent more, overall, than the February 2012 rate adjustments. Table 1 shows the proposed percent change for the new rates for each area.

All figures in the tables that follow are based on calculations performed either by an independent accountant or by the Director’s staff. In both cases those calculations were performed using common commercial computer programs. Decimalization and rounding of the audited and calculated data affects the display in these tables but does not affect the calculations. The calculations are based on the actual figure that rounds values for presentation in the tables.

TABLE 1—SUMMARY OF RATE ADJUSTMENTS

If pilotage service is required in:	Then the percent change over the current rate is:
Area 1 (Designated waters)	– 1.41%
Area 2 (Undesignated waters) .....	– 1.69
Area 4 (Undesignated waters) .....	8.87
Area 5 (Designated waters)	0.95
Area 6 (Undesignated waters) .....	4.31
Area 7 (Designated waters)	0.56
Area 8 (Undesignated waters) .....	1.52

*B. Discussion of Methodology*

The Appendix A methodology provides seven steps, with sub-steps, for calculating rate adjustments. The following discussion describes those steps and sub-steps and includes tables showing how we have applied them to the 2010 detailed pilot financial information.

*Step 1: Projection of Operating Expenses.* In this step, we project the amount of vessel traffic annually. Based

upon that projection, we forecast the amount of necessary and reasonable operating expenses that pilotage rates should recover.

*Step 1.A: Submission of Financial Information.* This sub-step requires each pilot association to provide us with detailed financial information in accordance with 46 CFR part 403. The associations complied with this requirement, supplying 2010 financial information in 2011; this is the most current and complete data set we have available.

*Step 1.B: Determination of Recognizable Expenses.* This sub-step requires us to determine which reported

association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition, or if they should not be allowed for ratemaking purposes. The independent accountant made preliminary findings; they were sent to the pilot associations, and the pilot associations reviewed and commented on the preliminary findings.

Then, the independent accountant made final findings. The Coast Guard Director of Great Lakes Pilotage reviewed and accepted those final findings, resulting in the determination of recognizable expenses. The preliminary findings, the associations' comments on those findings, and the final findings are all discussed in the "Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses," which appears in the docket. Tables 2 through 4 show each association's recognized expenses.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2010	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
<b>Pilot Costs:</b>			
Other pilotage costs:			
Pilot subsistence/Travel .....	\$212,715	\$167,880	\$380,595
License insurance .....	23,880	18,847	42,727
Payroll taxes .....	0	0	0
Other .....	1,432	1,130	2,562
Total other pilotage costs .....	238,027	187,857	425,884
<b>Pilot Boat and Dispatch Costs:</b>			
Pilot boat expense .....	95,254	75,178	170,432
Dispatch expense .....	0	0	0
Payroll taxes .....	7,962	6,283	14,245
Total pilot and dispatch costs .....	103,216	81,461	184,677
<b>Administrative Expenses:</b>			
Legal .....	7,959	6,282	14,241
Insurance .....	13,971	11,026	24,997
Employee benefits .....	19,454	15,354	34,808
Payroll taxes .....	4,816	3,801	8,617
Other taxes .....	4,504	3,554	8,058
Travel .....	215	169	384
Depreciation/auto leasing/other .....	17,440	13,765	31,205
Interest .....	12,576	9,926	22,502
Dues and subscriptions .....	13,075	10,319	23,394
Utilities .....	5,130	4,049	9,179
Salaries .....	49,840	39,336	89,176
Accounting/Professional fees .....	4,997	3,943	8,940
Other .....	9,408	7,425	16,833
Total Administrative Expenses .....	163,385	128,949	292,334
Total Operating Expenses .....	504,628	398,267	902,895
<b>Proposed Adjustments (independent CPA):</b>			
<b>Operating Expenses:</b>			
Other Pilot Costs:			
Pilotage Subsistence/Travel .....	(7,747)	(6,114)	(13,861)
Payroll taxes .....	64,563	50,955	115,518
Total other pilotage costs .....	56,816	44,841	101,657
<b>Administrative Expenses:</b>			
Legal .....	799	631	1,430
Employee benefits .....	(1,537)	(1,213)	(2,750)
Dues and subscriptions .....	(13,075)	(10,319)	(23,394)
Total Administrative Expenses .....	(13,813)	(10,901)	(24,714)
Total CPA Adjustments .....	43,003	33,940	76,943
Total Operating Expenses .....	547,631	432,207	979,838

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported Expenses for 2010	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other pilotage costs:			
Pilot subsistence/Travel .....	\$79,503	\$119,254	\$198,757
License insurance .....	6,168	9,252	15,420
Payroll taxes .....	53,457	80,186	133,643
Other .....	42,130	63,195	105,325
Total other pilotage costs .....	181,258	271,887	453,145
Pilot Boat and Dispatch Costs:			
Pilot boat expense .....	145,254	217,882	363,136
Dispatch expense .....	7,830	11,745	19,575
Payroll taxes .....	4,056	6,084	10,140
Total pilot and dispatch costs .....	157,140	235,711	392,851
Administrative Expenses:			
Legal .....	8,120	12,180	20,300
Office rent .....	26,275	39,413	65,688
Insurance .....	13,410	20,114	33,524
Employee benefits .....	24,420	36,631	61,051
Payroll taxes .....	2,980	4,471	7,451
Other taxes .....	19,100	28,651	47,751
Depreciation/Auto leasing/Other .....	22,954	34,431	57,385
Interest .....	14,790	22,185	36,975
Dues and subscriptions .....	6,200	9,300	15,500
Utilities .....	12,138	18,208	30,346
Salaries .....	46,611	69,917	116,528
Accounting/Professional fees .....	14,067	21,100	35,167
Other .....	16,157	24,235	40,392
Total Administrative Expenses .....	227,223	340,835	568,058
Total Operating Expenses .....	565,622	848,432	1,414,054
Proposed Adjustments (independent CPA):			
Operating Expenses:			
Other Pilot Costs:			
Pilotage subsistence/Travel .....	(3,999)	(5,999)	(9,998)
Total other pilotage costs .....	(3,999)	(5,999)	(9,998)
Pilot boat and dispatch costs:			
Pilot boat expense .....	(767)	(1,150)	(1,917)
Total pilot boat and dispatch costs .....	(767)	(1,150)	(1,917)
Administrative Expenses:			
Legal .....	(209)	(314)	(523)
Office rent .....	(809)	(1,213)	(2,022)
Interest .....	(11,268)	(16,902)	(28,170)
Dues and subscriptions .....	(6,200)	(9,300)	(15,500)
Total Administrative Expenses .....	(18,486)	(27,729)	(46,215)
TOTAL CPA ADJUSTMENTS .....	(23,252)	(34,878)	(58,130)
Total Operating Expenses .....	542,369	813,554	1,355,924

Note: Numbers may not total due to rounding.

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2010	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Operating Expenses:				
Other Pilot Costs:				
Pilot subsistence/Travel .....	\$170,162	\$81,836	\$108,514	\$360,512
License insurance .....	9,204	4,426	5,869	19,499
Payroll taxes .....	27,774	13,358	17,712	58,844
Other .....	630	303	402	1,335
Total other pilotage costs .....	207,770	99,923	132,497	440,190

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2010	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
<b>Pilot Boat and Dispatch Expenses:</b>				
Pilot boat costs .....	197,244	94,861	125,785	417,890
Dispatch expense .....	72,550	34,891	46,266	153,707
Payroll taxes .....	8,068	3,880	5,145	17,093
<b>Total pilot boat and dispatch costs .....</b>	<b>277,862</b>	<b>133,632</b>	<b>177,196</b>	<b>588,690</b>
<b>Administrative Expenses:</b>				
Legal .....	28,089	13,509	17,913	59,511
Office Rent .....	4,673	2,247	2,980	9,900
Insurance .....	6,581	3,165	4,197	13,943
Employee benefits .....	57,942	27,866	36,950	122,758
Payroll taxes .....	5,709	2,746	3,641	12,096
Other taxes .....	15,381	7,397	9,808	32,586
Depreciation/auto leasing .....	23,495	11,299	14,983	49,777
Interest .....	1,537	739	980	3,256
Dues and subscriptions .....	13,676	6,577	8,721	28,974
Utilities .....	13,223	6,359	8,432	28,014
Salaries .....	49,802	23,951	31,759	105,512
Accounting/professional fees .....	11,894	5,720	7,585	25,199
Other .....	5,574	2,681	3,555	11,810
<b>Total administrative expenses .....</b>	<b>237,576</b>	<b>114,256</b>	<b>151,504</b>	<b>503,336</b>
<b>Total Operating Expenses .....</b>	<b>723,208</b>	<b>347,811</b>	<b>461,197</b>	<b>1,532,216</b>
<b>Proposed Adjustments (independent CPA):</b>				
<b>Other Pilot Costs:</b>				
Payroll taxes .....	26,213	12,606	16,716	55,535
<b>Total other pilotage costs .....</b>	<b>26,213</b>	<b>12,606</b>	<b>16,716</b>	<b>55,535</b>
<b>Pilot Boat and Dispatch Expenses:</b>				
Dispatch costs .....	(2,170)	(1,044)	(1,384)	(4,598)
<b>Total pilot boat and dispatch costs .....</b>	<b>(2,170)</b>	<b>(1,044)</b>	<b>(1,384)</b>	<b>(4,598)</b>
<b>Administrative Expenses:</b>				
Legal .....	(1,454)	(699)	(927)	(3,080)
Dues and subscriptions .....	(13,676)	(6,577)	(8,721)	(28,974)
Other .....	(1,255)	(603)	(800)	(2,658)
<b>Total administrative expenses .....</b>	<b>(16,385)</b>	<b>(7,879)</b>	<b>(10,448)</b>	<b>(34,712)</b>
<b>Total CPA Adjustments .....</b>	<b>7,658</b>	<b>3,683</b>	<b>4,884</b>	<b>16,225</b>
<b>Total Operating Expenses .....</b>	<b>730,866</b>	<b>351,494</b>	<b>466,081</b>	<b>1,548,441</b>

**Note:** Numbers may not total due to rounding.

*Step 1.C: Adjustment for Inflation or Deflation.* In this sub-step we project rates of inflation or deflation for the succeeding navigation season. Because we used 2010 financial information, the

“succeeding navigation season” for this ratemaking is 2011. We based our inflation adjustment of 3.2 percent on the 2011 change in the Consumer Price Index (CPI) for the Midwest Region of

the United States, which can be found at: [http://www.bls.gov/xg\\_shells/ro5xg01.htm](http://www.bls.gov/xg_shells/ro5xg01.htm). This adjustment appears in Tables 5 through 7.

TABLE 5—INFLATION ADJUSTMENT, DISTRICT ONE

Reported expenses for 2010	Area 1		Area 2		Total
	St. Lawrence River		Lake Ontario		
Total Operating Expenses .....	\$547,631		\$432,207		\$979,838
2011 change in the Consumer Price Index (CPI) for the Midwest Region of the United States. ×	.032	×	.032	×	.032
Inflation Adjustment .....	\$17,524	=	\$13,831	=	\$31,355

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO

Reported expenses for 2010	Area 4		Area 5		Total
	Lake Erie		Southeast Shoal to Port Huron, MI		
Total Operating Expenses .....	\$542,369		\$813,554		\$1,355,924
2011 change in the Consumer Price Index (CPI) for the Midwest Region of the United States. ×	.032	×	.032	×	.032
Inflation Adjustment .....	\$17,356	=	\$26,034	=	\$43,390

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE

Reported expenses for 2010	Area 6		Area 7		Area 8		Total
	Lake Huron and Michigan		St. Mary's River		Lake Superior		
Total Operating Expenses .....	\$730,866		\$351,494		\$466,081		\$1,548,441
2011 change in the Consumer Price Index (CPI) for the Midwest Region of the United States. ×	.032	×	.032	×	.032	×	.032
Inflation Adjustment .....	\$23,388	=	\$11,248	=	\$14,915	=	\$49,550

*Step 1.D: Projection of Operating Expenses.* The final sub-step of Step 1 is to project the operating expenses for each pilotage area, on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection.

Based on comments and supporting material received for the 2012 Appendix A NPRM, we determined that foreseeable circumstances exist in District One.

Eight months of District One's pilot boat mortgage payments and boat

insurance qualify as foreseeable circumstances. For District One, the projected operating expenses are based on the calculations from Sub-steps 1.A through 1.C and the aforementioned foreseeable circumstances. Table 8 shows these projections.

TABLE 8—PROJECTED OPERATING EXPENSES, DISTRICT ONE

Reported expenses for 2010	Area 1		Area 2		Total
	St. Lawrence River		Lake Ontario		
Total operating expenses .....	\$547,631		\$432,207		\$979,838
Inflation adjustment 3.2% .....	17,524	+	13,831	+	31,355
Director's adjustment & foreseeable circumstances					
Pilot boat mortgage payments .....	26,429	+	20,815	+	47,244
Pilot boat insurance .....	7,221	+	5,687	+	12,908
Total projected expenses for 2012 pilotage season .....	\$598,805	=	\$472,540	=	\$1,071,344

**Note:** Numbers may not total due to rounding.

During the audit for the 2013 Appendix A rulemaking, the independent accountant informed us that District Two applied for and received a Consolidated Omnibus Budget Reconciliation Act (COBRA) subsidy for the first and second quarter

of 2010. The American Recovery and Reinvestment Act of 2009 provided for a temporary premium subsidy for COBRA continuation coverage. The amount of the COBRA insurance subsidy for the period 2010 was \$60,460. Federal taxes of \$18,400 are

accounted for in Step 6 (Federal Tax Allowance). For District Two, the projected operating expenses are based on the calculations from Sub-steps 1.A through 1.C, the COBRA subsidy, and Federal taxes. Table 9 shows these projections.

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO

Reported expenses for 2010	Area 4		Area 5		Total
	Lake Erie		Southeast Shoal to Port Huron, MI		
Total Operating Expenses .....	\$542,369		\$813,554		\$1,355,924
Inflation Adjustment 3.2% .....	17,356	+	26,034	+	43,390
Director's adjustment & foreseeable circumstances					
American Recovery and Reinvestment Act Subsidy .....	(24,184)	+	(36,276)	+	(60,460)
Federal taxes (accounted for in Step 6) .....	(7,360)	+	(11,040)	+	(18,400)

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO—Continued

Reported expenses for 2010	Area 4		Area 5		Total
	Lake Erie		Southeast Shoal to Port Huron, MI		
Total projected expenses for 2013 pilotage season .....	=	\$528,182	=	\$792,272	= \$1,320,454

Because we are not now aware of any such foreseeable circumstances for District 3, its projected operating expenses are based exclusively on the calculations from Sub-steps 1.A through 1.C. Table 10 shows these projections.

TABLE 10—PROJECTED OPERATING EXPENSES, DISTRICT THREE

Reported expenses for 2010	Area 6		Area 7		Area 8		Total
	Lakes Huron and Michigan		St. Mary's River		Lake Superior		
Total Expenses .....		\$730,866		\$351,494		\$466,081	\$1,548,441
Inflation Adjustment 3.2% .....	+	23,388	+	11,248	+	14,915	49,550
Total projected expenses for 2013 pilotage season ...	=	\$754,254	=	\$362,742	=	\$480,996	= \$1,597,991

*Step 2: Projection of Target Pilot Compensation.* In Step 2, we project the annual amount of target pilot compensation that pilotage rates should provide in each area. These projections are based on our latest information on the conditions that will prevail in 2013.

*Step 2.A: Determination of Target Rate of Compensation.* Target pilot compensation for pilots in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Compensation is determined based on the most current union contracts and includes wages and benefits received by first mates. We calculate target pilot compensation for pilots on designated waters by multiplying the average first mates' wages by 150 percent and then adding the average first mates' benefits.

The most current union contracts available to us are American Maritime Officers Union (AMOU) contracts with three U.S. companies engaged in Great Lakes shipping. There are two separate AMOU contracts available—we refer to them as Agreements A and B and apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Both Agreements A and B expire on July 31, 2016. For the 2011 Appendix C and 2012 Appendix A rulemakings we did not have the current contracts and projected target pilot compensation based on historic data. We have

adjusted our projections and recalculated compensation based upon the new contracts. Under Agreement A, we project that the daily wage rate would decrease from \$278.73 to \$270.61. Under Agreement B, the daily wage rate would increase from \$343.59 to \$368.05.

Because we are interested in annual compensation, we must convert these daily rates. Agreements A and B both use monthly multipliers to convert daily rates into monthly figures that represent actual working days and vacation, holiday, weekend, or bonus days. The monthly multiplier for Agreement A is 54.5 days and the monthly multiplier for Agreement B is 49.5 days. We multiply the monthly figures by 9, which represents the average length (in months) of the Great Lakes shipping season. Table 11 shows our calculations.

TABLE 11—PROJECTED WAGE COMPONENTS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
\$270.61 daily rate × 54.5 days .....	\$14,748.25	\$22,122.38
Monthly total × 9 months = total wages .....	132,734	199,101
Agreement B:		
\$368.05 daily rate × 49.5 days .....	18,218.48	27,327.71
Monthly total × 9 months = total wages .....	163,966	245,949

Based on the contracts of both Agreements A and B, we will adjust their health benefits and pension contributions and leave 401K-plan contributions unchanged. Health benefits for Agreement A will decrease this benefit from \$107.40 to \$52.96 per

day, and Agreement B will decrease this benefit from \$107.40 to \$105.61 per day. The multiplier that both agreements use to calculate monthly benefits from daily rates is currently 45.5 days, and we project that will remain unchanged. Agreement A eliminated pension

contributions, and Agreement B increased the pension contribution from \$43.55 to \$44.61 per day. Agreements A and B maintained 401K plan contributions at 5 percent of the monthly wage. We use a 9-month multiplier to calculate the annual value

of these benefits. Table 12 shows our calculations.

TABLE 12—PROJECTED BENEFITS COMPONENTS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
Employer contribution, 401K plan (Monthly wages × 5%) .....	\$737.41	\$1,106.12
Pension = \$0.00 × 45.5 days .....	0.00	0.00
Health = \$52.96 × 45.5 days .....	2,409.68	2,409.68
Monthly total benefits .....	3,147.09	3,515.80
Monthly total benefits × 9 months .....	28,323.81	31,642.20
Agreement B:		
Employer contribution, 401K plan (Monthly wages × 5%) .....	910.92	1,366.38
Pension = \$44.61 × 45.5 days .....	2,029.76	2,029.76
Health = \$105.61 × 45.5 days .....	4,805.26	4,805.26
Monthly total benefits .....	7,745.94	8,201.40
Monthly total benefits × 9 months .....	69,713.46	73,812.60

Table 13 combines our projected wage and benefit components of annual target pilot compensation.

TABLE 13—PROJECTED WAGE AND BENEFITS COMPONENTS, COMBINED

	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
Wages .....	\$132,734	\$199,101
Benefits .....	28,324	31,642
Total .....	161,058	230,744
Agreement B:		
Wages .....	163,966	245,949
Benefits .....	69,713	73,813
Total .....	233,680	319,762

Agreements A and B affect three companies. Of the tonnage operating under those three companies, approximately 30 percent operates under Agreement A and approximately 70 percent operates under Agreement B. Table 14 provides details.

TABLE 14—SHIPPING TONNAGE APPORTIONED BY CONTRACT

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

We use the percentages from Table 14 to apportion the projected wage and benefit components from Table 13. This gives us a single tonnage-weighted set of figures. Table 15 shows our calculations.

TABLE 15—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS

	Undesignated waters	Designated waters
Agreement A:		
Total wages and benefits .....	\$161,058	\$230,744
Percent tonnage .....	× 29.7238%	× 29.7238%

TABLE 15—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS—Continued

		Undesignated waters		Designated waters
Total	=	\$47,873	=	\$68,586
Agreement B:				
Total wages and benefits		\$233,680		\$319,762
Percent tonnage	×	70.2762%	×	70.2762%
Total	=	\$164,221	=	\$224,717
Projected Target Rate of Compensation				
Agreement A total weighted average wages and benefits		\$47,873		\$68,586
Agreement B total weighted average wages and benefits	+	\$164,221	+	\$224,717
Total	=	\$212,094	=	\$293,302

*Step 2.B: Determination of the Number of Pilots Needed.* Subject to adjustment by the Coast Guard Director of Great Lakes Pilotage to ensure uninterrupted service or for other reasonable circumstances, we determine the number of pilots needed for ratemaking purposes in each area by dividing projected bridge hours for each area, by either 1,000 (designated waters) or 1,800 (undesignated waters) bridge hours. We round the mathematical results and express our determination as whole pilots.

“Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service,” 46 CFR part 404, Appendix A, Step 2.B(1). For that

reason and as we explained most recently in the 2011 ratemaking’s final rule, we do not include, and never have included, pilot delay, detention, or cancellation in calculating bridge hours. See 76 FR 6351 at 6352 col. 3 (February 4, 2011). Projected bridge hours are based on the vessel traffic that pilots are expected to serve. We use historical data, input from the pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services for the coming year.

In our 2012 final rule, we determined that 38 pilots would be needed for ratemaking purposes. We have determined that 38 remains the proper

number to use for ratemaking purposes in 2013. This includes five pilots in Area 2, where rounding up alone would result in only four pilots. For the same reasons we explained at length in the final rule for the 2008 ratemaking, 74 FR 220 at 221–22 (January 5, 2009) which is available in the docket, we have determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 16 shows the bridge hours we project will be needed for each area and our calculations to determine the number of whole pilots needed for ratemaking purposes.

TABLE 16—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2013 bridge hours	Divided by 1,000 (designated waters) or 1,800 (undesignated waters)	Calculated value of pilot demand	Pilots needed (total = 38)
Area 1 (Designated waters)	5,216	÷ 1,000 =	5.216	6
Area 2 (Undesignated waters)	5,509	÷ 1,800 =	3.061	5
Area 4 (Undesignated waters)	6,814	÷ 1,800 =	3.785	4
Area 5 (Designated waters)	5,102	÷ 1,000 =	5.102	6
Area 6 (Undesignated waters)	11,411	÷ 1,800 =	6.339	7
Area 7 (Designated waters)	3,223	÷ 1,000 =	3.223	4
Area 8 (Undesignated waters)	9,540	÷ 1,800 =	5.300	6

*Step 2.C: Projection of Target Pilot Compensation.* In Table 17 we project total target pilot compensation

separately for each area, by multiplying the number of pilots needed in each

area, as shown in Table 16, by the target pilot compensation shown in Table 15.

TABLE 17—PROJECTION OF TARGET PILOT COMPENSATION BY AREA

Pilotage area	Pilots needed (total = 38)	Target rate of pilot compensation	Projected target pilot compensation
Area 1 (Designated waters)	6	×	\$1,759,814
Area 2 (Undesignated waters)	5	×	1,060,469
Area 4 (Undesignated waters)	4	×	848,375
Area 5 (Designated waters)	6	×	1,759,814
Area 6 (Undesignated waters)	7	×	1,484,657
Area 7 (Designated waters)	4	×	1,173,209

TABLE 17—PROJECTION OF TARGET PILOT COMPENSATION BY AREA—Continued

Pilotage area	Pilots needed (total = 38)	Target rate of pilot compensation	Projected target pilot compensation
Area 8 (Undesignated waters)	6 ×	212,094 =	1,272,563

Note: Numbers may not total due to rounding.

Step 3 and 3.A: Projection of Revenue. pilotage services matches the bridge 2012 pilotage rates were left unchanged. In this step, we project the revenue that hours we projected in Table 16, and if Table 18 shows this calculation. would be received in 2013 if demand for

TABLE 18—PROJECTION OF REVENUE BY AREA

Pilotage area	Projected 2013 bridge hours	2012 Pilotage rates	Revenue projection for 2013
Area 1 (Designated waters)	5,216	\$467.58 =	\$2,438,897
Area 2 (Undesignated waters)	5,509 ×	289.72 =	1,596,067
Area 4 (Undesignated waters)	6,814 ×	188.54 =	1,284,712
Area 5 (Designated waters)	5,102 ×	504.11 =	2,571,969
Area 6 (Undesignated waters)	11,411 ×	191.69 =	2,187,375
Area 7 (Designated waters)	3,223 ×	480.26 =	1,547,878
Area 8 (Undesignated waters)	9,540 ×	183.87 =	1,754,120
Total			13,381,018

Step 4: Calculation of Investment Base. This step calculates each association's investment base, the recognized capital investment in the assets employed by the association required to support pilotage operations. This step uses a formula set out in 46 CFR part 404, Appendix B. The first part of the formula identifies each association's total sources of funds. Tables 19 through 21 follow the formula up to that point.

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT ONE

	Area 1	Area 2
<b>Recognized Assets:</b>		
Total Current Assets	\$681,485	\$537,847
Total Current Liabilities	78,005 -	61,564 -
Current Notes Payable	22,168 +	17,496 +
Total Property and Equipment (NET)	374,021 +	295,189 +
Land	12,315 -	9,720 -
Total Other Assets	0 +	0 +
Total Recognized Assets	= 987,354	= 779,248
<b>Non-Recognized Assets:</b>		
Total Investments and Special Funds	+ 6,103	+ 4,817
Total Non-Recognized Assets	= 6,103	= 4,817
<b>Total Assets:</b>		
Total Recognized Assets	987,354	779,248
Total Non-Recognized Assets	+ 6,103	+ 4,817
Total Assets	= 993,457	= 784,065
<b>Recognized Sources of Funds:</b>		
Total Stockholder Equity	659,702	520,656
Long-Term Debt	+ 323,902	+ 255,633
Current Notes Payable	+ 22,168	+ 17,496
Advances from Affiliated Companies	+ 0	+ 0
Long-Term Obligations—Capital Leases	+ 0	+ 0
Total Recognized Sources	= 1,005,772	= 793,785
<b>Non-Recognized Sources of Funds:</b>		
Pension Liability	0	0
Other Non-Current Liabilities	+ 0	+ 0
Deferred Federal Income Taxes	+ 0	+ 0
Other Deferred Credits	+ 0	+ 0
Total Non-Recognized Sources	= 0	= 0
<b>Total Sources of Funds:</b>		
Total Recognized Sources	1,005,772	793,785

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT ONE—Continued

		Area 1		Area 2
Total Non-Recognized Sources .....	+	0	+	0
Total Sources of Funds .....	=	1,005,772	=	793,785

TABLE 20—TOTAL SOURCES OF FUNDS, DISTRICT TWO

		Area 4		Area 5
<b>Recognized Assets:</b>				
Total Current Assets .....		\$454,842		\$1,026,731
Total Current Liabilities .....	–	449,157	–	1,013,899
Current Notes Payable .....	+	0	+	0
Total Property and Equipment (NET) .....	+	312,858	+	706,224
Land .....	–	0	–	0
Total Other Assets .....	+	0	+	0
Total Recognized Assets .....	=	318,543	=	719,056
<b>Non-Recognized Assets:</b>				
Total Investments and Special Funds .....	+	0	+	0
Total Non-Recognized Assets .....	=	0	=	0
<b>Total Assets:</b>				
Total Recognized Assets .....		318,543		719,056
Total Non-Recognized Assets .....	+	0	+	0
Total Assets .....	=	318,543	=	719,056
<b>Recognized Sources of Funds:</b>				
Total Stockholder Equity .....		60,920		137,517
Long-Term Debt .....	+	257,622	+	581,540
Current Notes Payable .....	+	0	+	0
Advances from Affiliated Companies .....	+	0	+	0
Long-Term Obligations—Capital Leases .....	+	0	+	0
Total Recognized Sources .....	=	318,542	=	719,057
<b>Non-Recognized Sources of Funds:</b>				
Pension Liability .....		0		0
Other Non-Current Liabilities .....	+	0	+	0
Deferred Federal Income Taxes .....	+	0	+	0
Other Deferred Credits .....	+	0	+	0
Total Non-Recognized Sources .....	=	0	=	0
<b>Total Sources of Funds:</b>				
Total Recognized Sources .....		318,542		719,057
Total Non-Recognized Sources .....	+	0	+	0
Total Sources of Funds .....	=	318,542	=	719,057

TABLE 21—TOTAL SOURCES OF FUNDS, DISTRICT THREE

		Area 6		Area 7		Area 8
<b>Recognized Assets:</b>						
Total Current Assets .....		\$1,009,619		\$485,558		\$643,846
Total Current Liabilities .....	–	123,906	–	59,590	–	79,016
Current Notes Payable .....	+	0	+	0	+	0
Total Property and Equipment (NET) .....	+	35,709	+	17,174	+	22,772
Land .....	–	0	–	0	–	0
Total Other Assets .....	+	354	+	170	+	226
Total Recognized Assets .....	=	921,776	=	443,312	=	587,828
<b>Non-Recognized Assets:</b>						
Total Investments and Special Funds .....	+	0	+	0	+	0
Total Non-Recognized Assets .....	=	0	=	0	=	0
<b>Total Assets:</b>						
Total Recognized Assets .....		921,776		443,312		587,828
Total Non-Recognized Assets .....	+	0	+	0	+	0
Total Assets .....	=	921,776	=	443,312	=	587,828
<b>Recognized Sources of Funds:</b>						
Total Stockholder Equity .....		921,776		443,321		587,828

TABLE 21—TOTAL SOURCES OF FUNDS, DISTRICT THREE—Continued

		Area 6		Area 7		Area 8
Long-Term Debt .....	+	0	+	0	+	0
Current Notes Payable .....	+	0	+	0	+	0
Advances from Affiliated Companies .....	+	0	+	0	+	0
Long-Term Obligations—Capital Leases .....	+	0	+	0	+	0
<b>Total Recognized Sources .....</b>	<b>=</b>	<b>921,776</b>	<b>=</b>	<b>443,321</b>	<b>=</b>	<b>587,828</b>
<b>Non-Recognized Sources of Funds:</b>						
Pension Liability .....		0		0		0
Other Non-Current Liabilities .....	+	0	+	0	+	0
Deferred Federal Income Taxes .....	+	0	+	0	+	0
Other Deferred Credits .....	+	0	+	0	+	0
<b>Total Non-Recognized Sources .....</b>	<b>=</b>	<b>0</b>	<b>=</b>	<b>0</b>	<b>=</b>	<b>0</b>
<b>Total Sources of Funds:</b>						
Total Recognized Sources .....		921,776		443,321		587,828
Total Non-Recognized Sources .....	+	0	+	0	+	0
<b>Total Sources of Funds .....</b>	<b>=</b>	<b>921,776</b>	<b>=</b>	<b>443,321</b>	<b>=</b>	<b>587,828</b>

Tables 19 through 21 also relate to the second part of the formula for calculating the investment base. The second part establishes a ratio between recognized sources of funds and total sources of funds. Since no non-recognized sources of funds (sources we

do not recognize as required to support pilotage operations) exist for any of the pilot associations for this year's rulemaking, the ratio between recognized sources of funds and total sources of funds is "1:1" (or a multiplier of "1") in all cases. Table 22 applies the

multiplier of "1," and shows that the investment base for each association equals its total recognized assets. Table 22 also expresses these results by area, because area results will be needed in subsequent steps.

TABLE 22—INVESTMENT BASE BY AREA AND DISTRICT

District	Area	Total recognized assets (\$)	Recognized sources of funds (\$)	Total sources of funds (\$)	Multiplier (ratio of recognized to total sources)	Investment base (\$) <sup>1</sup>
One .....	1	987,354	1,005,772	1,005,772	1	987,354
	2	779,248	793,785	793,785	1	779,248
<b>Total .....</b>						<b>1,766,602</b>
Two <sup>2</sup> .....	4	318,543	318,542	318,542	1	318,543
	5	719,056	719,057	719,057	1	719,056
<b>Total .....</b>						<b>1,037,599</b>
Three .....	6	921,776	921,776	921,776	1	921,776
	7	443,312	443,312	443,312	1	443,312
	8	587,828	587,828	587,828	1	587,828
<b>Total .....</b>						<b>1,952,916</b>

<sup>1</sup> Note: "Investment base" = "Total recognized assets" × "Multiplier (ratio of recognized to total sources)".

<sup>2</sup> Note: The pilot associations that provide pilotage services in Districts One and Three operate as partnerships. The pilot association that provides pilotage service for District Two operates as a corporation.

*Step 5: Determination of Target Rate of Return.* We determine a market-equivalent return on investment (ROI) that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the

preceding year's average annual rate of return for new issues of high-grade corporate securities. For 2011, the preceding year, the allowed ROI was a little more than 4.64 percent, based on the average rate of return that year on Moody's AAA corporate bonds, which can be found at: <http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119>.

*Step 6: Adjustment Determination.* The first Sub-step in the adjustment determination requires an initial calculation, applying a formula described in Appendix A. The formula uses the results from Steps 1, 2, 3, and 4 to project the ROI that can be expected in each area, if no further adjustments are made. This calculation is shown in Tables 23 through 25.

TABLE 23—PROJECTED ROI, AREAS IN DISTRICT ONE

		Area 1	Area 2
Revenue (from Step 3)	+	\$2,438,897	\$1,596,067
Operating Expenses (from Step 1)	−	598,805	472,540
Pilot Compensation (from Step 2)	−	1,759,814	1,060,469
Operating Profit/(Loss)	=	80,278	63,059
Interest Expense (from audits)	−	12,576	9,926
Earnings Before Tax	=	67,702	53,133
Federal Tax Allowance	−	0	0
Net Income	=	67,702	53,133
Return Element (Net Income + Interest)		80,278	63,059
Investment Base (from Step 4)	+	987,354	779,248
Projected Return on Investment	=	0.08	0.08

TABLE 24—PROJECTED ROI, AREAS IN DISTRICT TWO

		Area 4	Area 5
Revenue (from Step 3)	+	\$1,284,712	\$2,571,969
Operating Expenses (from Step 1)	−	\$528,181	\$792,272
Pilot Compensation (from Step 2)	−	\$848,375	\$1,759,814
Operating Profit/(Loss)	=	(\$91,845)	\$19,883
Interest Expense (from audits)	−	\$3,522	\$5,283
Earnings Before Tax	=	(\$95,367)	\$14,600
Federal Tax Allowance	−	\$7,360	\$11,040
Net Income	=	(\$102,727)	\$3,560
Return Element (Net Income + Interest)		(\$99,205)	\$8,843
Investment Base (from Step 4)	+	\$318,543	\$719,056
Projected Return on Investment	=	(0.31)	0.01

TABLE 25—PROJECTED ROI, AREAS IN DISTRICT THREE

		Area 6	Area 7	Area 8
Revenue (from Step 3)	+	\$2,187,375	\$1,547,878	\$1,754,120
Operating Expenses (from Step 1)	−	\$754,254	\$362,742	\$480,996
Pilot Compensation (from Step 2)	−	\$1,484,657	\$1,173,209	\$1,272,563
Operating Profit/(Loss)	=	(\$51,536)	\$11,927	561
Interest Expense (from audits)	−	\$1,537	\$739	\$980
Earnings Before Tax	=	(\$53,073)	\$11,188	(\$419)
Federal Tax Allowance	−	\$0	\$0	\$0
Net Income	=	(\$53,073)	\$11,188	(\$419)
Return Element (Net Income + Interest)		(\$51,536)	\$11,927	\$561
Investment Base (from Step 4)	+	\$921,776	\$443,312	\$587,828
Projected Return on Investment	=	(0.06)	0.03	0.00

The second sub-step required for Step 6 compares the results of Tables 23 through 25 with the target ROI

(approximately 4.64 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is

necessary. Table 26 shows this comparison for each area.

TABLE 26—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA <sup>1</sup>

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast Shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected return on investment	0.081	0.081	(0.288)	0.028	(0.056)	0.027	0.001
Target return on investment	0.046	0.046	0.046	0.046	0.046	0.046	0.046
Difference in return on investment	0.035	0.035	(0.335)	(0.019)	(0.102)	(0.019)	(0.045)

<sup>1</sup> Note: Decimalization and rounding of the target ROI affects the display in this table but does not affect our calculations, which are based on the actual figure.

Because Table 26 shows a significant difference between the projected and target ROIs, an adjustment to the base pilotage rates is necessary. Step 6 now

requires us to determine the pilotage revenues that are needed to make the target return on investment equal to the projected return on investment. This

calculation is shown in Table 27. It adjusts the investment base we used in Step 4, multiplying it by the target ROI from Step 5, and applies the result to

the operating expenses and target pilot compensation determined in Steps 1 and 2.

TABLE 27—REVENUE NEEDED TO RECOVER TARGET ROI, BY AREA

Pilotage area	Operating expenses (Step 1)	Target pilot compensation (Step 2)	Investment base (step 4) × 4.64% (target ROI Step 5)	Federal tax allowance	Revenue needed
Area 1 (Designated waters)	\$598,805 +	\$1,759,814 +	\$45,805 +	\$0 =	\$2,404,424
Area 2 (Undesignated waters)	472,540 +	1,060,469 +	36,151 +	0 =	1,569,160
Area 4 (Undesignated waters)	528,181 +	848,375 +	14,778 +	7,360 =	1,398,694
Area 5 (Designated waters)	792,272 +	1,759,814 +	33,358 +	11,040 =	2,596,484
Area 6 (Undesignated waters)	754,254 +	1,484,657 +	42,763 +	0 =	2,281,673
Area 7 (Designated waters)	362,742 +	1,173,209 +	20,566 +	0 =	1,556,517
Area 8 (Undesignated waters)	480,996 +	1,272,563 +	27,270 +	0 =	1,780,829
Total	3,989,788 +	9,358,902 +	220,691 +	18,400 =	13,587,781

The “Revenue Needed” column of Table 27 is more than the revenue we projected in Table 18. For purposes of transparency, we verify Table 27’s

calculations by rerunning the first part of Step 6, using the revenue needed from Table 27 instead of the Table 18 revenue projections we used in Tables

23 through 25. Tables 28 through 30 show that attaining the Table 27 revenue needed is sufficient to recover target ROI.

TABLE 28—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT ONE

	Area 1	Area 2
Revenue Needed	\$2,404,424 +	\$1,569,160
Operating Expenses (from Step 1)	\$598,805 -	\$472,540
Pilot Compensation (from Step 2)	\$1,759,814 -	\$1,060,469
Operating Profit/(Loss)	\$45,805 =	\$36,151
Interest Expense (from audits)	\$12,576 -	\$9,926
Earnings Before Tax	\$33,229 =	\$26,225
Federal Tax Allowance	\$0 -	\$0
Net Income	\$33,229 =	\$26,225
Return Element (Net Income + Interest)	\$45,805 =	\$36,151
Investment Base (from Step 4)	\$987,354 ÷	\$779,248
Return on Investment	0.0464 =	0.0464

TABLE 29—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO

	Area 4	Area 5
Revenue Needed	\$1,398,694 +	\$2,596,484
Operating Expenses (from Step 1)	\$528,181 -	\$792,272
Pilot Compensation (from Step 2)	\$848,375 -	\$1,759,814
Operating Profit/(Loss)	\$22,138 =	\$44,398
Interest Expense (from audits)	\$3,522 -	\$5,283
Earnings Before Tax	\$18,616 =	\$39,115
Federal Tax Allowance	\$7,360 -	\$11,040
Net Income	\$11,256 =	\$28,075
Return Element (Net Income + Interest)	\$14,778 =	\$33,358
Investment Base (from Step 4)	\$318,543 ÷	\$719,056
Return on Investment	0.0464 =	0.0464

TABLE 30—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT THREE

	Area 6	Area 7	Area 8
Revenue Needed	\$2,281,673 +	\$1,556,517 +	\$1,780,829
Operating Expenses (from Step 1)	\$754,254 -	\$362,742 -	\$480,996
Pilot Compensation (from Step 2)	\$1,484,657 -	\$1,173,209 -	\$1,272,563
Operating Profit/(Loss)	\$42,763 =	\$20,566 =	\$27,270
Interest Expense (from audits)	\$1,537 -	\$739 -	\$980
Earnings Before Tax	\$41,226 =	\$19,827 =	\$26,290
Federal Tax Allowance	\$0 -	\$0 -	\$0
Net Income	\$41,226 =	\$19,827 =	\$26,290
Return Element (Net Income + Interest)	\$42,763 =	\$20,566 =	\$27,270
Investment Base (from Step 4)	\$921,776 ÷	\$443,312 ÷	\$587,828

TABLE 30—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT THREE—Continued

	Area 6	Area 7	Area 8
Return on Investment .....	= 0.0464 =	0.0464 =	0.0464

*Step 7: Adjustment of Pilotage Rates.* supportable circumstances, we calculate 3 revenue projection (Table 18), to give Finally, and subject to negotiation with rate adjustments by dividing the Step 6 us a rate multiplier for each area. Tables Canada or adjustment for other revenue needed (Table 27) by the Step 31 through 33 show these calculations.

TABLE 31—RATE MULTIPLIER, AREAS IN DISTRICT ONE

Ratemaking projections	Area 1	Area 2
	St. Lawrence River	Lake Ontario
Revenue Needed (from Step 6) .....	\$2,404,424	\$1,569,160
Revenue (from Step 3) .....	÷ \$2,438,897 ÷	÷ \$1,596,067
Rate Multiplier .....	= 0.9859 =	= 0.9831

TABLE 32—RATE MULTIPLIER, AREAS IN DISTRICT TWO

Ratemaking projections	Area 4	Area 5
	Lake Erie	Southeast Shoal to Port Huron, MI
Revenue Needed (from Step 6) .....	\$1,398,694	\$2,596,484
Revenue (from Step 3) .....	÷ \$1,284,712 ÷	÷ \$2,571,969
Rate Multiplier .....	= 1.0887 =	= 1.0095

TABLE 33—RATE MULTIPLIER, AREAS IN DISTRICT THREE

Ratemaking projections	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior
	Revenue Needed (from Step 6) .....	\$2,281,673	\$1,556,517
Revenue (from Step 3) .....	÷ \$2,187,375 ÷	÷ \$1,547,878 ÷	÷ \$1,754,120
Rate Multiplier .....	= 1.0431 =	= 1.0056 =	= 1.0152

Rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420) and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point

(46 CFR 401.428), would increase by 1.55 percent in all areas.

We calculate a rate multiplier for adjusting the basic rates and charges described in 46 CFR 401.420 and 401.428 and applicable in all areas. We divide total revenue needed (Step 6, Table 27) by total projected revenue

(Step 3 & 3A, Table 18). Our proposed rate changes for 46 CFR 401.420 and 401.428 reflect the multiplication of the rates we established for those sections in our 2012 final rule, by the rate multiplier shown as the result of our calculation in Table 34.

TABLE 34—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428

Ratemaking Projections	
Total Revenue Needed (from Step 6) .....	\$13,587,781
Total revenue (from Step 3) .....	÷ \$13,381,018
Rate Multiplier .....	= 1.0155

We multiply the existing rates we established in our 2012 final rule by the

rate multipliers from Tables 31 through 33 to calculate the area by area rate

changes we propose for 2013. Tables 35 through 37 show these calculations.

TABLE 35—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT ONE

	2012 Rate		Rate multiplier		Adjusted rate for 2013
Area 1 St. Lawrence River:					
Basic Pilotage .....	\$19.02/km, \$33.67/mi	×	0.986	=	\$18.75/km, \$33.19/mi
Each lock Transited .....	\$422	×	0.986	=	\$416
Harbor moorage .....	\$1,381	×	0.986	=	\$1,361
Minimum basic rate, St. Lawrence River .....	\$921	×	0.986	=	\$908
Maximum rate, through trip .....	\$4,041	×	0.986	=	\$3,984
Area 2 Lake Ontario:					
6-Hour period .....	\$865	×	0.983	=	\$851
Docking or Undocking .....	\$826	×	0.983	=	\$812

Note: Numbers may not total due to rounding.

TABLE 36—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

	2012 Rate		Rate multiplier		Adjusted rate for 2013
Area 4 Lake Erie:					
6-Hour period .....	\$760	×	1.089	=	\$828
Docking or undocking .....	585	×	1.089	=	637
Any point on Niagara River below Black Rock Lock .....	1,493	×	1.089	=	1,626
Area 5 Southeast Shoal to Port Huron, MI between any point on or in:					
Toledo or any point on Lake Erie W. of Southeast Shoal .....	1,369	×	1.010	=	1,382
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal .....	2,317	×	1.010	=	2,339
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River .....	3,008	×	1.010	=	3,037
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat .....	2,317	×	1.010	=	2,339
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat) .....	4,036	×	1.010	=	4,074
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat) .....	4,675	×	1.010	=	4,719
Port Huron Change Point & Detroit River .....	3,031	×	1.010	=	3,060
Port Huron Change Point & Detroit Pilot Boat .....	2,358	×	1.010	=	2,381
Port Huron Change Point & St. Clair River .....	1,677	×	1.010	=	1,693
St. Clair River .....	1,369	×	1.010	=	1,382
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat) .....	4,036	×	1.010	=	4,074
St. Clair River & Detroit River/Detroit Pilot Boat .....	3,031	×	1.010	=	3,060
Detroit, Windsor, or Detroit River .....	1,369	×	1.010	=	1,382
Detroit, Windsor, or Detroit River & Southeast Shoal .....	2,317	×	1.010	=	2,339
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal .....	3,008	×	1.010	=	3,037
Detroit, Windsor, or Detroit River & St. Clair River .....	3,031	×	1.010	=	3,060
Detroit Pilot Boat & Southeast Shoal .....	1,677	×	1.010	=	1,693
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal .....	2,317	×	1.010	=	2,339
Detroit Pilot Boat & St. Clair River .....	3,031	×	1.010	=	3,060

Note: Numbers may not total due to rounding.

TABLE 37—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE

	2011 Rate		Rate multiplier		Adjusted rate for 2012
Area 6 Lakes Huron and Michigan:					
6-Hour Period .....	\$662	×	1.043	=	\$691
Docking or undocking .....	629	×	1.043	=	656
Area 7 St. Mary's River between any point on or in:					
Gros Cap & De Tour .....	2,568	×	1.006	=	2,583
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour .....	2,568	×	1.006	=	2,583
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap .....	967	×	1.006	=	973
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour .....	2,153	×	1.006	=	2,165
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap .....	967	×	1.006	=	973
Sault Ste. Marie, MI & De Tour .....	2,153	×	1.006	=	2,165
Sault Ste. Marie, MI & Gros Cap .....	967	×	1.006	=	973
Harbor moorage .....	967	×	1.006	=	973
Area 8 Lake Superior:					
6-Hour period .....	577	×	1.015	=	586

TABLE 37—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE—Continued

	2011 Rate		Rate multiplier		Adjusted rate for 2012
Docking or undocking .....	549	×	1.015	=	557

Note: Numbers may not total due to rounding.

**VI. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of 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. This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

A draft regulatory assessment follows.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard’s 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 are adjusting the pilotage rates for the 2013 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment. The rate adjustments in this proposed rule would, if codified, lead to a cost in all three districts with an

estimated cost to shippers of approximately \$148,000 across all three districts.

The proposed rule would apply the 46 CFR part 404, Appendix A, full ratemaking methodology and increase Great Lakes pilotage rates, on average, approximately 1.87 percent overall from the current rates set in the 2012 final rule. The Appendix A methodology is discussed and applied in detail in Part V of this preamble. Among other factors described in Part V, it reflects audited 2010 financial data from the pilotage associations (the most recent year available for auditing), projected association expenses, and regional inflation or deflation. The last full Appendix A ratemaking was concluded in 2011 and used financial data from the 2009 base accounting year. The last annual rate review, conducted under 46 CFR part 404, Appendix C, was completed early in 2011.

In general, we expect an increase in pilotage rates for a certain area to result in additional costs for shippers using pilotage services in that area, while a decrease would result in a cost reduction or savings for shippers in that area. The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The Coast Guard’s interpretation is that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this rule, such as recreational boats and vessels only operating within the Great Lakes system may elect to purchase pilotage services.

However, this election is voluntary and does not affect the Coast Guard’s calculation of the rate and is not a part of our estimated national cost to shippers. Coast Guard sampling of pilot data suggests there are very few U.S. domestic vessels, without registry and operating only in the Great Lakes that voluntarily purchase pilotage services.

We used 2008–2010 vessel arrival data from the Coast Guard’s Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment to be 204 vessels that journey into the Great Lakes system. These vessels entered the Great Lakes by transiting through or in part of at least one of the three pilotage districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 204 vessels, there were approximately 319 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2008–2010 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from the District pilotage revenues. These revenues represent the direct and indirect costs (“economic costs”) that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage.

We estimate the additional impact (costs or savings) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs in 2013 based on the 2012 rate adjustment and the total projected revenue needed to cover costs in 2013 as set forth in this proposed rule. Table 38 details additional costs or savings by area and district.

TABLE 38—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE PROPOSED RULE BY AREA AND DISTRICT  
[\$U.S.; Non-discounted]

	Projected revenue needed in 2012 *	Projected revenue needed in 2013 **	Additional costs or savings of this proposed rule
Area 1 .....	\$2,308,357	\$2,404,424	\$96,067

TABLE 38—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE PROPOSED RULE BY AREA AND DISTRICT—Continued  
 [\$U.S.; Non-discounted]

	Projected revenue needed in 2012 *	Projected revenue needed in 2013 **	Additional costs or savings of this proposed rule
Area 2 .....	1,614,791	1,569,160	(45,631)
Total, District One .....	3,923,148	3,973,583	50,435
Area 4 .....	1,310,549	1,398,694	88,145
Area 5 .....	2,600,490	2,596,484	(4,006)
Total, District Two .....	3,911,039	3,995,178	84,139
Area 6 .....	2,227,555	2,281,673	54,118
Area 7 .....	1,565,906	1,556,517	(9,389)
Area 8 .....	1,811,863	1,780,829	(31,034)
Total, District Three .....	5,605,324	5,619,020	13,696

\* These 2012 estimates are detailed in Table 18 of the 2012 final rule (76 FR 6351).

\*\* These 2013 estimates are detailed in Table 27 of this rulemaking.

Some values may not total due to rounding.

“Additional Revenue or Cost of this Rulemaking” = “Revenue needed in 2012” minus “Revenue needed in 2011.”

After applying the rate change in this proposed rule, the resulting difference between the projected revenue in 2012 and the projected revenue in 2013 is the annual impact to shippers from this rule. This figure would be equivalent to the total additional payments or savings that shippers would incur for pilotage services from this proposed rule. As discussed earlier, we consider a reduction in payments to be a cost savings.

The impact of the rate adjustment in this proposed rule to shippers varies by area and district. The rate adjustments would lead to a cost in all three districts, with affected shippers operating in District One, District Two, and District Three experiencing costs of \$50,435, \$84,139, and \$13,696, respectively. To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less depending on the distance and port arrivals of their vessels’ trips. However, the additional savings reported earlier in this NPRM does capture the adjustment the shippers would experience as a result of the proposed rate adjustment. As Table 38 indicates, shippers operating in all areas would experience an annual cost due to this rulemaking. The overall impact of the proposed rule would be a

cost to shippers of approximately \$148,270 across all three districts.

This proposed rulemaking would allow the U.S. Coast Guard to meet the statutory requirements to review the rates for pilotage services on the Great Lakes—ensuring proper pilot compensation.

*B. Small Entities*

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

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

For the proposed rule, we reviewed recent company size and ownership data from 2008–2010 Coast Guard MISLE data and business revenue and

size data provided by publicly available sources such as MANTA and Reference USA. We found that large, mostly foreign-owned, shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees; they have approximately 65 total employees combined. We expect no adverse impact to these entities from this proposed rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard certifies 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, as well as how and to what degree this proposed rule would economically affect it.

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we 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. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email [Todd.A.Haviland@uscg.mil](mailto:Todd.A.Haviland@uscg.mil), or fax 202–372–1909. 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 Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### D. Collection of Information

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

#### E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on 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 that Order and have determined that it does not have implications for federalism because States are expressly prohibited by 46 U.S.C. 9306 from regulating pilotage on the Great Lakes.

#### 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 expenditure, we do discuss the effects of this 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 Executive Order 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 Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This 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 Executive Order 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 Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This 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 Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that 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 environmental analysis checklist supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This proposed rule adjusts rates in accordance with applicable statutory and regulatory mandates. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 46 CFR Part 401

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

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

**PART 401—GREAT LAKES PILOTAGE REGULATIONS**

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

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

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

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

\* \* \* \* \*

(a) Area 1 (Designated Waters):

Service	St. Lawrence river	Lake Erie (east of Southeast Shoal)	Buffalo
Basic Pilotage .....	<sup>1</sup> \$18.75 per kilometer or \$33.19 per mile.		
Each Lock Transited Harbor Morage .....	<sup>1</sup> \$416. <sup>1</sup> \$1,361.		

  

Service	Lake Ontario
6-Hour Period .....	\$851
Docking or Undocking	812

<sup>1</sup> The minimum basic rate for assignment of a pilot in the St. Lawrence River is \$908, and the maximum basic rate for a through trip is \$3,984.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
6-Hour Period .....	\$851
Docking or Undocking	812

3. In § 401.407 revise paragraphs (a) and (b), including the footnote to Table (b), to read as follows:

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

\* \* \* \* \*

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (east of Southeast Shoal)	Buffalo
6-Hour Period ...	\$828	\$828
Docking or Undocking .....	637	637
Any point on the Niagara River below the Black Rock Lock .....	N/A	1,626

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal .....	\$2,339	\$1,382	\$3,037	\$2,339	N/A
Port Huron Change Point .....	<sup>1</sup> 4,074	<sup>1</sup> 4,719	3,060	2,339	1,693
St. Clair River .....	<sup>1</sup> 4,074	N/A	3,060	3,060	1,382
Detroit or Windsor or the Detroit River .....	2,339	3,037	1,382	N/A	3,060
Detroit Pilot Boat .....	1,693	2,339	N/A	N/A	3,060

<sup>1</sup> When pilots are not changed at the Detroit Pilot Boat.

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

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

\* \* \* \* \*

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
6-Hour Period .....	\$691

Service	Lakes Huron and Michigan
Docking or Undocking .....	656

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any harbor
Gros Cap .....	\$2,583	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario .....	2,583	973	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf .....	2,165	973	N/A
Sault Ste. Marie, MI .....	2,165	973	N/A
Harbor Morage .....	N/A	N/A	\$973

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
6-Hour Period .....	\$586
Docking or Undocking .....	557

**§ 401.420 [Amended]**

5. Amend § 401.420 as follows:  
 a. In paragraph (a), remove the text "\$124" and add, in its place, the text "\$126"; and remove the text "\$1,942" and add, in its place, the text "\$1,972";  
 b. In paragraph (b), remove the text "\$124" and add, in its place, the text "\$126"; and remove the text "\$1,942" and add, in its place, the text "\$1,972"; and

c. In paragraph (c)(1), remove the text "\$733" and add, in its place, the text "\$744"; and in paragraph (c)(3), remove the text "\$124" and add, in its place, the text "\$126", and remove the text "\$1,942" and add, in its place, the text "\$1,972".

**§ 401.428 [Amended]**

6. In § 401.428, remove the text "\$748" and add, in its place, the text "\$744".

Dated: July 9, 2012.

**Dana A. Goward,**  
 Director, Marine Transportation Systems Management, U.S. Coast Guard.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2 and 90**

[WP Docket No. 07-100; PS Docket No. 06-229; WT Docket No. 06-150; FCC 12-61]

**4.9 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission allocated the 4940-4990 MHz (4.9 GHz) band in 2002 for fixed and mobile use and dedicated the band for public safety broadband communications. In the ten years since, the band has gone underutilized. The