DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2015–0497]

RIN 1625–AC22

Great Lakes Pilotage Rates—2016 Annual Review and Changes to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; public meeting.

SUMMARY: The Coast Guard proposes revisions to the annual ratemaking methodology (''procedural changes'') and several Great Lakes pilotage regulations, and proposes new base pilotage rates and surcharges (''rate changes''), using that proposed revised methodology. The changes would take effect 30 days after publication of a final rule. Rates for pilotage services on the Great Lakes were last revised in February 2015 and by law must be reviewed annually. The Coast Guard intends for the proposed revised methodology to be understandable and transparent, and to encourage investment in pilots, infrastructure, and training while helping ensure safe, efficient, and reliable service on the Great Lakes. In addition, the Coast Guard announces a public meeting on September 17, 2015, at which the public may ask questions about the proposals and comment on them. This rulemaking promotes the Coast Guard's maritime safety and stewardship (environmental protection) missions by promoting safe shipping on the Great Lakes.

DATES: Comments and related material must either be submitted to the online docket via *www.regulations.gov* on or before November 9, 2015 or reach the Docket Management Facility by that date. The public meeting will be held on September 17, 2015, from 1:00 p.m. to 4:00 p.m., but may end sooner depending on the extent to which the public has questions or comments.

ADDRESSES: The September 17, 2015 public meeting will be held at the Detroit Metro Airport Marriott, 30559 Flynn Dr., Romulus, MI 48174 (telephone 734–729–7555 or *Marriott.com*). Submit written comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand deliver*—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. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil*, or fax 202–372–1914. If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Executive Summary

The purpose of this rulemaking is to amend the Coast Guard's Great Lakes pilotage regulations by revising the current methodology by which the Coast Guard sets base rates for U.S. pilotage service. The legal basis for the rulemaking is provided by Great Lakes pilotage statutes in 46 U.S.C. chapter 93. The proposed changes would take effect 30 days after publication of a final rule; this would coincide closely with the start of the 2016 shipping season and be several months earlier than in past rulemakings, which set changes that took effect on August 1 of each year.

The Coast Guard is proposing a complete revision of the current methodology for two reasons. First, over many years both pilots and industry have identified certain methodology issues that they believe significantly distort ratemaking calculations. Pilot associations believe those distortions result in low rates that contribute to their difficulty in retaining pilots and attracting applicant pilots. Second, only one union's contract data has ever been made available to the Coast Guard for the purpose of determining the benchmark for pilot compensation. The union now regards that data as proprietary and will no longer disclose it to the Coast Guard. The union is not subject to our Great Lakes pilotage regulatory oversight and therefore we respect and accept their decision. However, as a result of this decision, the Coast Guard no longer has access to the detailed breakdown of compensation calculations that our current methodology relies on, and the public cannot review the union's calculations or the manner in which we apply those calculations in setting pilotage rates. Therefore, we have decided we must select another benchmark for our ratemaking purposes. In 2014, the Coast Guard's Great Lakes Pilotage Advisory Committee (GLPAC) recommended significant changes to address stakeholder issues with the current methodology and to adapt to the unavailability of benchmark contract data.[1] This rulemaking would build a new ratemaking methodology around the GLPAC recommendations, the 2013 Bridge Hour Study, and numerous comments we have received over the past decade from previous rulemakings to revise this proposed methodology. Also, we believe the proposed methodology addresses the issues raised with the 2014 Appendix A Final Rule lawsuit, *St. Lawrence Seaway Pilots Association, Inc., et al.*, v. *U.S. Coast Guard*.[2] The pilots successfully challenged the 2014 Appendix A Final Rule and their recommendation for target pilot compensation is discussed in this proposed rule.

As is done in the current ratemaking methodology, the proposed new methodology would follow a series of steps, which we describe in Part V. Step 1 reviews and recognizes previous operating expenses based on audits of records provided by the pilot associations. Step 2 projects each association's future operating expenses, adjusting for inflation or deflation. Step 3 projects the number of pilots needed based on each area's peak pilotage demand data and the pilot work cycle. Step 4 sets target pilot compensation using a compensation benchmark. Step 5 projects each association's return on investment by adding the projected adjusted operating expenses from Step 2 and the total target pilot compensation from Step 4 and multiplying by the preceding year's average annual rate of return for new issues of high grade corporate securities. Step 6 calculates each association's needed revenue by adding the projected adjusted operating expenses from Step 2, the total target pilot compensation from Step 4 and the projected return on investment from Step 5. Step 7 calculates initial base rates based on the preceding steps. Step 8 adjusts the Step 7 initial rates if necessary and reasonable to do so for supportable circumstances, and sets final rates.

In Part VI, the Coast Guard uses the proposed methodology described in Part V to calculate proposed base rates for the 2016 shipping season.

In Step 1 we propose accepting the independent accountant's final findings

[1] *See* 46 U.S.C. 9307.

[2] Docket No. 1:14–cv–00392–TSC.

from the 2013 audits of each association's expenses.

In Step 2 we project next year's operating expenses and adjust them for inflation, using actual inflation data for 2014 and 2015 and the Federal Reserve target inflation rate as a proxy for actual 2016 inflation.

In Step 3, we determine that 50 pilots are needed next year, up from the 36 pilots we currently authorize. This number is based on data for four shipping seasons, 2010 through 2013, instead of the normal five seasons, because we do not have reliable source data for 2009 or 2014. The number is also based average pilot assignment cycle time based on our 2013 Bridge Hour Definition and Methodology Final Report though we intend to use Great Lakes Pilotage Management System (GLPMS) source data in the future.

In Step 4 we propose individual target pilot compensation of $312,500 and total target pilot compensation for 42 pilots of $13,125,000. Though we find that 50 pilots are needed over the period for which 2016 base rates would be in effect, based on our best current information we project there to be only 42 fully working and fully compensated pilots (''working pilots'') in 2016. The figures were set after considering various possible compensation benchmarks, including the compensation figures proposed by the pilot associations, and selecting 2013 Canadian Great Lakes Pilotage Authority (GLPA) registered pilot compensation as the most appropriate benchmark.

In Steps 5 and 6 we calculate the return on investment and project each pilot association's needed revenue.

In Step 7, we calculate initial base rates using the multi-year base period used above, covering the 2010 through 2013 shipping seasons.

Finally, in Step 8, we finalize the Step 7 rates, but propose imposing a temporary surcharge of $300,000 per district in 2016. The surcharge would reimburse pilot associations for the anticipated expenses of providing necessary training for current pilots and applicant pilots.

In addition to the proposed methodology revisions and proposed 2016 rates, we also propose an additional location for beginning and ending pilot assignments (a ''change point'') at Iroquois Lock. This would enhance safety by mitigating fatigue associated with long pilotage runs of 10 hours or more in the St. Lawrence River.

The proposed rule would not be economically significant under E.O. 12866. It would affect 36 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 126 vessels that journey the Great Lakes on an average 396 visits to various ports annually. The Coast Guard estimates that the proposed rate changes would result in shippers paying pilot associations a net 2016 shipping season increase from 2015 of $6,521,205. The proposed $6,521,205 represents a roughly 50% increase over the revenue the 2015 Appendix A Final Rule should generate. The Coast Guard also proposes authorizing temporary surcharges to reimburse pilot associations for training costs. These surcharges would add an estimated $900,000 in costs, for a total 2016 cost increase from 2015 of $7,421,205. Since the Coast Guard must review and prescribe rates for Great Lakes Pilotage annually, the effects are estimated as single year costs rather than annualized over a ten-year period. This rulemaking would not result in a change to Coast Guard's budget and it would not increase Federal spending. A summary of the regulatory analysis can be found in Part VII.

Table of Contents for Preamble

I. Public Participation and Request for Comments

We encourage you to submit comments (or related material) on this rulemaking. We will consider all submissions and may adjust our final action based on your comments. Comments should be marked with docket number USCG–2015–0497 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this proposed rule and all public comments are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

On September 17, 2015, members of the public are invited to attend a meeting in Detroit, Michigan, at which we will answer questions and take comments on this NPRM. See **DATES** and **ADDRESSES** for further information on the meeting. A transcript of the meeting will be prepared and placed in the docket for this rulemaking.

II. Abbreviations

AMOU American Maritime Officers Union
APA American Pilots Association
BLS Bureau of Labor Statistics
CAD Canadian dollars
CFR Code of Federal Regulations
GLPA Great Lakes Pilotage Authority (Canadian)
CPA Certified public accountant
E.O. Executive Order
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
LPA Laurentian Pilotage Authority (Canadian)
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
§ Section symbol
U.S.C. United States Code
USD United States dollars

III. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[3] which requires U.S. vessels operating ''on register''[4] and

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

[4] ''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.

foreign 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.[5] 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.'' [6] The Act requires that rates be established or reviewed and adjusted each year, not later than March 1.[7] 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.[8] The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[9]

The purpose of this notice of proposed rulemaking (NPRM) is to propose revisions to the annual ratemaking methodology and several Great Lakes pilotage regulations; to propose the addition of a new pilot change point; and to propose new base pilotage rates and surcharges, using the proposed revised ratemaking methodology.

IV. Background

The vessels affected by this NPRM are those engaged in foreign trade upon the U.S. waters of the Great Lakes. United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[10]

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 (''the Director'') to operate a pilotage pool. The Coast Guard does 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 Huron, Michigan, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the United States pilotage 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 ''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.'' [11]

The Coast Guard is required [12] to establish new pilotage rates by March 1 of each year, employing a ''full ratemaking . . . at least once every 5 years,'' and an annual review and adjustment in the intervening years. Currently, the methodology for an ''every 5 years'' full ratemaking appears in 46 CFR part 404, appendix A, and the methodology for annual review and adjustment appears in part 404, appendix C. Definitions and formulas applicable to both methodologies appear in part 404, appendix B. We have not used the appendix C methodology since the 2011 ratemaking, and instead we have conducted a full appendix A ratemaking each year.

V. Discussion of Proposed Changes to Ratemaking Methodology

As we do each year, the NPRM for the 2016 ratemaking proposes new rates. In addition, this year's NPRM must also propose procedural changes to the ratemaking methodology, for two reasons.

First, each year our ratemakings draw pilot and industry comments urging fundamental changes in our current ratemaking methodology.[13] Based on our review of such comments over many years, we understand that these stakeholders believe the current methodology is unnecessarily complex and based on an inaccurate understanding of how pilotage actually operates within the Great Lakes system. The stakeholders believe the methodology produces improper rates, and wide annual rate variations that frustrate long term planning. In response, in 2009 we solicited public comments to better understand stakeholder perceptions of the ratemaking methodology,[14] and promised to refer those comments to the Great Lakes Pilotage Advisory Committee (GLPAC),[15] a stakeholder group that advises us on Great Lakes pilotage matters, for GLPAC's review and recommendations. Ever since, we have worked closely with GLPAC to identify ways in which the methodology might be improved.

Second, we seek to ensure a safe, efficient, and reliable pilotage system for the Great Lakes and to eliminate possible barriers to achieving that goal. According to the pilot associations, the variance between projected revenue and actual revenue represents a significant challenge, because failure to achieve published revenue projections deprives them of the resources they need to provide safe, efficient, and reliable pilotage service. The associations cite challenges in making capital investments, recruiting and retaining adequately qualified pilots, achieving professional development and training schedules recommended by the American Pilots Association, updating technology, and achieving target compensation goals. The associations say that as a result, several experienced pilots have left the system, and that other desirable mariners have been discouraged from applying to become pilots. In this rulemaking, we propose specific regulatory changes intended to address these issues.

The procedural changes we propose here were discussed in general at GLPAC's public meetings on July 23 and 24, 2014. Many of the specific changes we propose in this NPRM were submitted for GLPAC consideration at those meetings, and GLPAC unanimously recommended them for adoption.[16] We consider GLPAC recommendations to have significant weight because the three pilot associations members represent pilots' interest and three U.S. shipping agent members represent owners. Although foreign citizens may not serve on GLPAC and therefore the foreign vessel

[5] 46 U.S.C. 9302(a)(1).

[6] 46 U.S.C. 9303(f).

[7] Id.

[8] Id.

[9] DHS Delegation No. 0170.1, para. II (92.f).

[10] 46 U.S.C. 9302. A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes. The vessels affected by this rule are commonly known as ''salties.''

[11] 46 U.S.C. 9302(a)(1)(B).

[12] 46 U.S.C. 9303(f).

[13] The current methodology was first proposed in 1989 (54 FR 11930), and made final in 1995 (60 FR 18366). It has not been significantly amended in the subsequent 20 years. For a discussion of the most recent cycle of public comments on our ratemaking methodology, and Coast Guard responses to those comments, *see* the 2015 final rule, 80 FR 10365 (Feb. 26, 2015), beginning at p. 10366, col. 3.

[14] 74 FR 35838 (July 21, 2009).

[15] Statutorily mandated by 46 U.S.C. 9307 and operating pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix 2.

[16] *See* full transcript in our docket and also available at *http://www.facadatabase.gov.* Under 46 U.S.C. 9307(d)(1), the Coast Guard ''shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.''

owners are not GLPAC members, we believe the U.S. shipping agents are aware of and can adequately represent their interests. Also, the foreign vessel owners can and do to attend GLPAC meetings and raise their concerns during each meeting's public comment period.

Please note that we propose making the following procedural and rate changes effective 30 days after publication of a final rule, almost half a year earlier than the August 1 effective date we have used in previous rulemakings. We specifically request comments on this proposed change. The change is justified for two reasons. First, the traditional August 1 date was tied to the August 1 effective date for annual changes in benchmark union contract rates. As we subsequently discuss, we are no longer using the contract in question and hence there is no inherent reason why we should continue following the traditional practice. Second, annual Great Lakes pilotage rate adjustments are required by law [17] to be set by March 1 of the year in which those adjustments take effect. By applying the normal Administrative Procedure Act effective date, 30 days following publication of a final rule,[18] we will ensure that new rates will be announced prior to the usual early spring opening of the annual Great Lakes shipping season, and take effect near the opening date, thereby providing a single rate scheme for all shipping traffic affected by the adjusted rates.

We propose the following procedural changes. Please note that, for each of the amended sections in the following discussion, we propose extensive rewording in the interest of greater clarity and to remove unnecessary verbiage.

46 CFR 401.405, 401.407, and 401.410. These sections contain rate tables and additional charges for specified Great Lakes waters. These rates and charges are subject to our annual rate reviews and revisions. Currently, the rate tables calculate rates differently for each area. Most of the pilotage costs charged in designated waters are for transits between two specified points. For example, as shown in current § 401.407(b), the current charge for transiting Lake Erie between Toledo and Southeast Shoal is $2,637. However, in undesignated waters, most of the pilotage charges are set at an hourly rate. For example, current § 401.407(a) shows that the cost for 6 hours of pilotage service on the undesignated waters of Lake Erie is $934. In addition, rates are set in designated and undesignated waters for miscellaneous services like vessel docking or undocking, cancellation of service, or the use of pilot boarding points other than those specified in § 401.450.

This mixed approach complicates an otherwise simple transaction of paying for a pilot's service, either when the pilot is piloting on a vessel's bridge, or is at the vessel master's disposal to provide piloting. We propose eliminating the mixed approach in favor of setting, for each district, one hourly rate for designated waters, and another hourly rate for undesignated waters. Those rates would be different for each district based on differences across the districts in the infrastructure maintained by each district association (for example, differences in numbers and types of pilot boat, or in office arrangements) and in the distances that pilots must travel to and from assignments.

Currently, some rates published in 46 CFR part 401 are based on hours, and others are based on the distance between two geographical points. GLPAC recommended re-baselining this billing scheme by a 5–1 vote in July 2014, and we propose doing so by basing all rates on hours.[19] In addition to simplifying billing, an hourly-based approach recognizes the scarcity of pilots as a resource, and charges shippers for drawing on the limited number of these trained professionals.

Proposed § 401.405 would set each district's new base hourly rates. The proposed changed to § 401.405 would replace the current text in §§ 401.407 and 401.410 so those section would be removed.

46 CFR 401.420 and 401.428. We propose amending § 401.420 (charges for a vessel's canceling, delaying, or interrupting pilotage service) and § 401.428 (charges for picking up or discharging a pilot other than at a pilot change point designated in § 401.450), and basing those charges on the applicable hourly rates we would specify in § 401.405. Billing under § 401.420 would preclude any additional charges for pilotage service during the hours in question.

We would not retain § 401.428's current per diem allowance for a pilot who is picked up or discharged at a point other than a designated change point. Instead, if the pilot is kept aboard for the convenience of or at the request of the ship, the pilot would bill the vessel for the extra time involved, at the § 401.405 hourly rates, in addition to reasonable travel costs. If the pilot is kept aboard for circumstances outside of the ship's control, for example because a pilot boat is out of service, the pilot would bill the vessel only for reasonable travel costs. Finally, we would specify that for both sections, the ''reasonable travel costs'' cover travel to and from the pilot's base.

In both sections we propose maintaining a similar calendar-based authorization for delays and charges associated with weather, traffic and ice. These are expected conditions at the beginning and end of the season; thus, our rate structure allows them as acceptable charges after November 30th or before May 1st each year.

46 CFR 401.450. We propose adding the Iroquois Lock in the St. Lawrence Seaway as a new pilot change point, joining those currently listed in this section. The St. Lawrence Seaway transit often requires pilots to spend more than ten hours aboard a vessel. Such long assignments contribute to pilot fatigue, and have led the National Transportation Safety Board to recommend that we amend our Great Lakes pilotage regulations to promulgate ''hours-of-service rules that prevent fatigue resulting from extended hours of service, insufficient rest within a 24-hour period, and disruption of circadian rhythms.'' [20] We currently authorize a pilot to request a new pilot at the Iroquois Lock for overnight assignments, but our proposed addition of the Iroquois Lock as a permanent pilot change point would further help mitigate the problem of long assignments in the St. Lawrence Seaway. We would closely monitor the impact of the proposed change on the number of pilots needed in District One.

46 CFR 403.120. We propose removing this section, which discusses notes to financial reports. Under our current financial reporting system those notes are not necessary.

46 CFR 403.300. The accuracy of our pilotage rates depends on the accuracy of our information on each pilotage association's expenses and revenue. In the past, we have had difficulty

[17] 46 U.S.C. 9303(f).

[18] 5 U.S.C. 553(d).

[19] Transcript, ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Thursday, July 24, 2014'' (7/24/2014), p. 16. Discussion of this change, referred to by GLPAC members as ''re-baselining'' of rates, begins on July 23, 2014. *See* Transcript (7/23/2014), ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Wednesday, July 23, 2014,'' p. 277. Discussion resumes: Transcript, ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Thursday, July 24, 2014'' (7/24/2014), p. 5.

[20] Letter of June 29, 2015, Christopher A. Hart, Chairman of the National Transportation Safety Board to Adm. Paul F. Zukunft, Commandant, U.S. Coast Guard.

validating the accuracy of this information, because some associations did not use a uniform financial reporting system. Therefore, we would require each association to use the current Coast Guard-approved and provided financial reporting system to certify their financial data annually. Currently, we approve the GLPMS for this purpose. We would continue to require an annual audit prepared by an independent certified public accountant.

46 CFR 403.400. Currently, this section details how forms must be filled out to report pilot transaction records. Although GLPMS allows for paper reporting, in the near future it will also provide an electronic reporting feature. Therefore we would amend the section to remove language that could suggest paper reporting is required. We accept reports made in any medium supported by our currently-approved financial reporting system.

46 CFR 404.1. Currently, this section explains the purpose of part 404, and summarizes ratemaking procedures that are described in the part 404 appendices. Because the remainder of part 404 would describe our procedures in detail, we propose removing these provisions. Instead, § 404.1 would state that our intention is to provide maximum ratemaking transparency and simplicity. It would state that the goal of ratemaking is to promote safe, efficient, and reliable pilotage service on the Great Lakes, by generating for each pilotage association sufficient revenue to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate reserve to use for improvements. The section would provide for the annual audit of association expenses, which we have conducted for many years. It would also require annual audits of association revenue. Revenue audits promote transparency and help us gauge, and if necessary adjust, the way in which we try to align our revenue projections with an association's actual revenue. GLPAC endorsed revenue audits in July 2014,[21] and they were first used in our 2015 ratemaking.

The section would also provide for a full ratemaking to establish base pilotage rates at least once every five years, with annual rate reviews and adjustments in the interim years, in accordance with the procedures described in part 404.

46 CFR 404.2. We would close the numbering gap between current §§ 404.1 and 404.5, and redesignate § 404.5 as § 404.2. Section 404.5 currently describes which pilot association expenses can or cannot be recognized as appropriate to recover through the charging of pilotage rates. New § 404.2 would do the same thing, and make no substantive changes except with respect to the recognition of pilot benefits as an element of pilot compensation. Current § 404.5 states that the amounts paid for benefits will be recognized to the extent benefits are included in ''the most recent union contract for first mates on Great Lakes vessels.'' Sufficiently detailed and itemized access to relevant union contracts is no longer available for Coast Guard or public review. Therefore, instead of linking benefits to union contracts, we would recognize pilot compensation as covering all association-paid pilot benefits, including medical and pension benefits and profit sharing.

46 CFR 404.100. We propose redesignating current § 404.10 as § 404.100. Section 404.10 currently provides a general introduction to the part 404 appendices on ratemaking methodology, but it contains no substantive requirements. It also currently describes the seven areas of the Great Lakes that are covered by the three pilotage districts, but since that information already appears in part 401, subpart D, it need not be repeated. We would replace this current content with general rules for the conduct of full ratemakings and rate reviews.

Currently, and as we have done since 2012, each year we conduct a full appendix A ratemaking to establish base pilotage rates. However, we believe establishing base rates for multi-year periods would produce more predictable rates for both pilots and industry. GLPAC recommended this approach in July 2014.[22]

Under our proposed multi-year approach, we would conduct full ratemakings to establish base rates at least once every 5 years, with base rate reviews and necessary adjustments in interim years.[23] In the interim years the Director would review the existing rates to ensure that they continue to promote safe, efficient, and reliable pilotage service. If interim-year adjustments are needed, they would be set either through automatic annual adjustments, pre-set during the previous full ratemaking in anticipation of economic trends over the multi-year term; or to reflect U.S. Bureau of Labor Statistics (BLS) Consumer Price Index (CPI–U); or, if neither of those methods would produce appropriate adjustments, through a new full ratemaking. Reviews and adjustments would be proposed for public comment.

For a transitional period over the next several years, we would conduct annual reviews of the rate and change the base rates, as needed, to ensure the new methodology's efficacy. This would also allow time for the pilots and industry to become familiar with the new ratemaking methodology (including the new hourly billing scheme). Following the transitional period, we would propose interim-year adjustments using any of the three methods described in the preceding paragraph.

Ratemaking methodology. We propose simplifying the current appendix A ratemaking methodology, and replacing it with new §§ 404.101 through 404.108. In part, the new sections are similar to the ''Steps'' described in appendix A, but they would depart from those Steps in significant respects. We also propose removing current appendix B (ratemaking definitions and formulas) and appendix C (annual rate reviews; which has not been used since 2011) as these are no longer necessary. Table 1 shows how we propose to change appendix A's Steps in the new regulatory text.

TABLE 1—PROPOSED TREATMENT OF APPENDIX A STEPS IN 446 CFR 404.101–404.108

Appendix A step	Proposed change	Comments
1	Omit	Unnecessary summary of substeps.
1.A	Omit	Move substance to § 404.2.
1.B	Reword and move	Move substance to new § 404.101 and move Step 1.B's second sentence to § 404.2.
1.C	Reword and move	Add similar language to § 404.102.

[21] Transcript (7/23/2014), p. 180.

[22] Transcript (7/23/2014), p. 274. Discussion begins on p. 258.

[23] Per 46 U.S.C. 9303(f), full ratemakings are required at least once every 5 years, with reviews and adjustments of the base rate in the intervening years.

TABLE 1—PROPOSED TREATMENT OF APPENDIX A STEPS IN 446 CFR 404.101–404.108—Continued

Appendix A step	Proposed change	Comments
1.D	Reword and move	Add similar language to § 404.102.
2	Omit	Unnecessary summary of substeps.
2.A	Reword and move	Add similar language to § 404.104.
2.B	Reword and move	Add similar language to § 404.103.
2.C	Reword and move	Add similar language to § 404.104.
3	Omit	Unnecessary summary of substep 3.A.
3.A	Reword and move	Cover substance in § 404.106.
4	Omit	Per recommendation approved by GLPAC [24]
5		Add similar language to § 404.105.
6	Reword and move	Per recommendation approved by GLPAC.[25] Add similar language to § 404.106.
7, except last sentence of first paragraph	Reword and move	Add similar language to § 404.107.
7, last sentence of first paragraph	Reword and move	Add similar language to § 404.108.

In the discussion that follows, we explain how our proposed new methodology would replace each Step of the appendix A methodology. Our calculations for 2016 rates, using the proposed methodology, appear in Part VI.

46 CFR 404.101—Recognize previous operating expenses. Section 404.101 would correspond generally to current Steps 1.A and 1.B (pilot association submission of financial information and Coast Guard recognition of costs). We would describe our criteria for recognizing costs in § 404.2. The section proposes that the recognition of costs be based on independent third party audits, as has been the case for many years.

46 CFR 404.102—Project operating expenses, adjusting for inflation or deflation. Section 404.102 would correspond to current Steps 1.C and 1.D and describe, as those Steps do, how we calculate an association's projected base non-compensation operating expenses. As we do today, we would apply a cost change factor for inflation or deflation, based on BLS Midwest Region CPI–U changes, to any of the operating expenses recognized under § 404.101 that could be affected by inflation or deflation.

This NPRM proposes base rates to take effect in 2016. It considers audited pilot association expenses from 2013, the last full year for which reported and audited financial information is available. Current Step 1.C allows us to apply a cost change factor only for the first year after that (2014). This does not take into account consumer price index changes in subsequent years (2015 and 2016). In July 2014 GLPAC recommended that we take the subsequent years into account,[26] and we propose doing so, using BLS, and the target inflation rate set by the Federal Reserve as a proxy for the Midwest Region CPI–U if BLS projection data is unavailable.

46 CFR 404.103—Determine number of pilots needed. Section 404.103 would correspond to current Step 2.B, which determines how many pilots are needed based on our projections of the bridge hours that pilots will serve during the upcoming shipping season. Because bridge hours represent only the time that a pilot is on board a vessel and providing basic pilotage service, pilots frequently have commented in previous years' ratemaking rules that we should also take into account necessary demands on pilot time that go beyond bridge hours. They have also commented that Step 2.B does not specify sources for our bridge hour projections and that inaccurate projections distort the rest of our ratemaking calculations. We agree and propose changing how we calculate the number of pilots needed.

Instead of projecting future bridge hours to calculate the number of pilots needed, we would rely on an average of actual past data, as recommended by GLPAC in July 2014.[27] Also as recommended by GLPAC,[28] we would identify the number of pilots needed to meet each shipping season's peak pilotage demand periods without interruption to service. To do this, we would determine each area's peak demand over an historical multi-year base period, and the pilot assignment cycle time to determine how many pilots would have been needed to meet that peak demand. For both determinations, we use averages to compensate for normal year-to-year fluctuation in traffic and pilot availability over the historical multi-year base period. We would divide the peak demand figures by the per-pilot cycle time to determine the number of pilots needed to meet peak demand.

Historical multi-year base period. Normally, the base period would cover the five most recent full shipping seasons, and our data source would be pilot association entries in a system approved under proposed § 403.300. Using a five year period should give us a reliable picture of recent Great Lakes traffic trends, and taking data from an approved system should ensure the use of consistent data across the three districts.

If within the five most recent seasons data are unavailable or unreliable, we would consider substituting available and reliable data from another past shipping season or from a source other than an approved system, such as pilot association submitted data or Canadian GLPA data. Examples of unavailable or unreliable data are situations where data have not been recorded in an approved system, or come from an outlier year in which traffic was abnormally low or high and so could significantly distort our calculations. Generally, a traffic distortion of significant proportion, one that we would not expect be replicated within the next decade, would form the basis of this determination. That year's NPRM would explain, for public comment, our determination that normal data sources are unavailable or unreliable, and our selection of an alternate source. We specifically request public comment on whether there is an objective standard that we can and should use in each annual ratemaking, to determine whether a particular shipping season should be treated as an ''outlier.''

For our first historical multi-year base period, we do not think we have sufficient reliable data for five recent

[24] Transcript (7/23/2014), p. 255. Discussion begins on p. 237.

[25] Id.

[26] Transcript (7/23/2014), p. 200. Discussion begins on p. 192.

[27] Transcript (7/23/2014), p. 258. Discussion begins on p. 255.

[28] Transcript (7/23/2014), p. 237. Discussion begins on p. 201.

shipping seasons, and therefore we propose using only four seasons' data, as we explain in Part VI.

Base seasonal work standard. This standard is intended to ensure that we consider all the time reasonably needed for a pilot to provide safe, efficient, and reliable pilotage service. We start by recognizing that pilots must provide pilotage whenever traffic demands it, and that the timing of this traffic is often unpredictable. Current regulations ensure only a minimum 10-hour rest period between a pilot's assignments.[29] Historically, peak traffic demand is concentrated at the beginning of a shipping season, to handle the traffic buildup created by the previous season's closure, and at the end of the season, when vessels seek to complete their voyages before closure. During these peak periods, pilots are often on assignment nearly continuously. However, even in off-peak months, pilots frequently provide pilotage over many weeks without any significant rest, which over time threatens to degrade their ability to provide safe service. The pilots, GLPAC, and the Coast Guard agree that proper rest is an important concern to address.

In July 2014, GLPAC recommended that we ''take a serious look'' at scheduling monthly 10 day recuperative rest periods for pilots.[30] We believe a reasonable goal is to provide each pilot with 10 days' recuperative rest each month during the off-peak months of the season, if it is possible to do so and still meet traffic demands safely, efficiently, and reliably. A typical shipping season runs 270 or more days of availability; 10 days scheduled time off each month is line with other pilot associations that require pilot availability of 180–200 days per year. Many pilot associations work a multi-team concept of 2 weeks on followed by 2 weeks off but we find this problematic because of the compressed shipping season in the Great Lakes. Thus, we propose building into our base seasonal work standard only 200 workdays per pilot per season. The 70-day difference should facilitate a 10-day recuperative rest period for each pilot in each of the seven months (mid-April to mid-November) between peak traffic periods.

In addition, we would determine, based on our analysis of best available data[31] and for each area, the reasonably necessary average work cycle associated with each pilot assignment. We propose including in the work cycle not only the pilot assignment itself (''bridge hours''), but also time for pilot travel time from the pilot's home or other base to and from assignments (including time spent on pilot boats to and from assignments), vessel delays and detention, the 10-hour mandatory rest between assignments,[32] and administrative time for district association presidents who also serve as pilots.[33]

Adjustment of results. Dividing peak demand figures by per-pilot assignment figures usually will result in a fractional number that we would round either up or down, as seems most reasonable, to the nearest whole integer. Area totals would be added to determine each district's needed pilots. We could also make reasonable and necessary adjustments to take into account anticipated supportable circumstances that could affect the district's need for pilotage over the years for which base pilotage rates are being established.

Needed vs. projected working pilots. In addition to showing the number of pilots needed in each district, we would also project the number of pilots we expect to be actually working full-time and fully compensated during the first shipping season of the new base period for which rates are being established. This projection becomes a key component of our calculations under proposed § 404.104. We believe the projection will closely match the first shipping season's actual pilot population, because our regulatory role gives us accurate data on the number of current applicant pilots and on the progress of those applicants through the application, training, and certificating processes,[34] and because the continuous communication between the Coast Guard and the pilot association ensures that we are aware of its near-term hiring expectations.

46 CFR 404.104—Determine target pilot compensation. This step would correspond to current Steps 2.A (individual target compensation) and 2.C (total target compensation) except in three respects.

First, Step 2.A sets two different target compensation figures, one for undesignated waters and the other for designated waters. Although we propose (in § 401.405) to set different rates for each district's designated and undesignated waters, 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 pilot compensation figure across all three districts.

Second, as we explained in discussing § 404.2, our compensation benchmark can no longer rely (as it does under Step 2.A) on contract compensation information that now is treated as proprietary and therefore not fully available for Coast Guard or public review. Instead, we propose considering only the most relevant current data that are available for Coast Guard and public review. Sources for such data may vary from one full ratemaking to another, and for supportable circumstances we would be able to make reasonable and necessary adjustments to the data. We review the sources we considered for this NPRM in Part VI.

Third, we propose changing the way in which Step 2.C determines total pilot compensation in each district, which currently is to multiply individual target pilot compensation by the number of *pilots needed.* That assumes that a district has a full complement of pilots to share the district's target compensation, and it incorrectly increases the district's total compensation when not fully staffed. This may act as a disincentive for the district to reach the full complement that we think necessary for providing safe, efficient, and reliable pilotage. Instead, we propose multiplying individual target pilot compensation by the number of pilots we project, in § 404.103, to be *working full time*[35] and compensated fully in the first shipping season of the new base period for which rates are being established.

46 CFR 404.105—Project return on investment. Currently, appendix A

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[29] 46 CFR 401.451.

[30] Transcript (7/24/2014), p. 240. Discussion begins on p. 225. The seven non-peak months run from mid-April to mid-November. Recuperative rest would be available ''up to'' 10 days per month during those months, dependent on actual traffic patterns and the need to provide reliable pilotage service. Our goal is to regulate the pilotage system to maximize the likelihood of providing the full 10 days per month.

[31] Figures for 2016 are based on analysis from the June 28, 2013 Bridge Hour Definition and Methodology Final Report conducted for the Coast Guard by MicroSystems Integration, Inc., available in the docket and at *http://www.uscg.mil/hq/cg5/cg552/pilotage.asp.* This analysis is detailed in Appendix B, on page B–10 and presented in the Part VI calculations for proposed § 404.103.

[32] 46 CFR 401.451. Note that this is not the same rest allowance as the previously-discussed 10 days' recuperative rest per month.

[33] This time is necessary to ensure effective and efficient association management and communication with industry and the Coast Guard.

[34] These processes are described in 46 CFR part 401, subpart B, and are sufficiently time-consuming that the number of new pilots likely to enter the system in the year for which base rates are being established can be ascertained with reasonable accuracy when we issue the NPRM proposing those rates. The NPRM's projections, of course, can be modified in the final rule, in response to public comments on the NPRM.

[35] At various times during the season, typically during seasonal peaks, associations engage contract registered pilots to temporarily increase staffing and meet traffic demand requirements.

contains three complex steps related to a district association's return on investment: Steps 4 (calculation of investment base), 5 (determination of target rate of return on investment), and 6 (adjustment determination). In July 2014, GLPAC recommended eliminating Steps 4 and 6 entirely, as being unclear and having minimal effect on the final rates, and revising Step 5 as we now propose.[36] We would project an association's return on investment by taking the sum of operating expenses from § 404.102 and target pilot compensation from § 404.104, and multiplying that sum by the preceding year's average annual rate of return for new high grade corporate securities (the same multiplier used in Step 5).

46 CFR 404.106—Project needed revenue. As discussed in connection with proposed § 404.105, we are not replicating the current Step 6 procedure for projecting each association's needed revenue for the next year. Instead, we propose calculating base needed revenue by adding projected base operating expenses from proposed § 404.102, the total base target pilot compensation from proposed § 404.104, and the base return on investment from proposed § 404.105. We believe this is a more transparent procedure and that it adequately projects an association's needed revenue.

46 CFR 404.107—Initially calculate base rates. This would correspond to current Step 7 of appendix A and initially set base rates for the designated and undesignated waters of each district, subject to modification or finalization under proposed § 404.108.

Currently, Step 7 takes projected revenue needed and divides it by projected revenue. The resulting rate multiplier is the percentage by which rates should be changed, subject to adjustment as explained in the last sentence of Step 7's first paragraph (we propose discussing that adjustment in § 404.108). This bases the rate multiplier on a calculation that depends on the accuracy of our revenue projection.

Instead, we propose initially calculating rates by dividing the projected needed revenue (§ 404.106) by available and reliable data for actual hours worked by pilots in each district's designated and undesignated waters during a multi-year base period. We would average this data to compensate for normal traffic fluctuation from one season to another.

As we propose for § 404.103, the base period would normally consist of the five most recent full shipping seasons. Normally, our data source would be pilot association entries in the GLPMS, or another system we would approve under proposed § 403.300. If, within the five most recent seasons, data are unavailable or unreliable, we would substitute available and reliable data from another past shipping season or from a source other than GLPMS, including pilot association data or Canadian GLPA data. For example, if data has not been recorded in a system approved under § 403.300, or comes from an outlier year in which traffic was abnormally low or high it could significantly distort our calculations; we would look to an alternative source of available shipping data.

In some years and in some districts, dividing needed revenue by the multi-year average hours could produce significantly higher rates for designated waters than for undesignated waters. This imbalance could create unnecessary financial risk to the pilot associations by focusing revenue generation too narrowly in designated waters at the expense of undesignated waters. To ensure safe, efficient, and reliable pilotage in all Great Lakes waters whether designated or undesignated, we therefore propose applying a ratio to adjust the balance between rates, limiting the designated-water rate to no more than twice the undesignated-water rate. This would correct the undesirable rate imbalance, without affecting the total needed revenue projected for each district.

46 CFR 404.108—Review and finalize rates. This would correspond to the last sentence in the first paragraph of appendix A's Step 7, which for ''supportable circumstances'' permits discretionary adjustments to initial rate calculations. Supportable circumstances include factors defined in current U.S.-Canadian agreements relating to Great Lakes pilotage.[37] Pilots and industry have commented unfavorably on past exercises of ''Step 7 discretion.'' We propose specifying that any modification to the initial rates set under § 404.107 must be necessary and reasonable, as well as justified by supportable circumstances. Under proposed § 404.100, we would continue to submit any proposed adjustment for public comment, which could result in our omitting or modifying the proposed adjustment. Any adjustment would be subject to § 404.107's limitation on the disparity between rates for designated and undesignated waters.

VI. Discussion of Proposed Rate Changes

We propose new rates and 46 CFR 401.401 surcharges for 2016. We reviewed the independent accountant's financial reports for each association's 2013 expenses and revenues. Those reports, which include pilot comments on draft versions and the accountant's response to those comments, appear in the docket.[38]

The following discussion applies the proposed ratemaking methodology that is discussed in section V of this preamble.

Recognize previous year's operating expenses (proposed § 404.101). We reviewed and accepted the accountant's final findings on the 2013 audits of association expenses.

Tables 2 through 4 show each association's recognized expenses.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2013	District one		
	Area 1 designated	Area 2 undesignated	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$281,488	$168,508	$449,996
License insurance	26,976	25,010	51,986
Payroll taxes	65,826	51,244	117,070

[36] Transcript (7/23/2014), p. 255. Discussion begins on p. 237.

[37] The Memorandum of Understanding can be viewed at *http://www.uscg.mil/hq/cg5/cg552/docs/2013%20MOU%20English.PDF*

[38] *See* ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses.''

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2013	District one		
	Area 1 designated	Area 2 undesignated	Total
	St. Lawrence River	Lake Ontario	
Other	6,925	5,460	12,385
Total other pilotage costs	381,215	250,222	631,437
Pilot Boat and Dispatch Costs:			
Pilot boat expense	131,193	102,077	233,270
Dispatch expense			
Payroll taxes	9,169	7,230	16,399
Total pilot and dispatch costs	140,362	109,307	249,669
Administrative Expenses			
Legal—general counsel	631	498	1,129
Legal—shared counsel (K&L Gates)	12,736	10,040	22,776
Insurance	22,525	17,756	40,281
Employee benefits	11,063	7,868	18,931
Payroll taxes	5,190	4,093	9,283
Other taxes	22,175	17,486	39,661
Travel	524	413	937
Depreciation/auto leasing/other	42,285	33,333	75,618
Interest	15,151	11,943	27,094
APA Dues	13,680	10,830	24,510
Dues and subscriptions	280	220	500
Utilities	4,920	3,878	8,798
Salaries	54,153	42,691	96,844
Accounting/Professional fees	5,091	4,009	9,100
Pilot Training			
Other	8,834	6,954	15,788
Total Administrative Expenses	219,238	172,012	391,250
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	740,815	531,541	1,272,356
Proposed Adjustments (Independent CPA)			
Payroll taxes	(1,855)	(1,750)	(3,605)
TOTAL CPA ADJUSTMENTS	(1,855)	(1,750)	(3,605)
Proposed Adjustments (Director):			
Dues and subscriptions	(280)	(220)	(500)
APA Dues	(2,052)	(1,625)	(3,677)
Legal—shared counsel (K&L Gates)	(12,736)	(10,040)	(22,776)
Dock Adjustment *	11,936	9,409	21,345
Surcharge Adjustment **	(54,481)	(42,948)	(97,429)
TOTAL DIRECTOR'S ADJUSTMENTS	(57,613)	(45,424)	(103,037)
Total Operating Expenses (OpEx + Adjustments)	681,347	484,368	1,165,715

* Based on the discussion without objection in the 2014 GLPAC meeting on this subject, this adjustment allocates $21,345 to District 1 to ensure complete recoupment of costs associated with upgrading the dock in Cape Vincent. Revenue projection shortfalls, confirmed by the revenue audits, resulted in District 1 not fully recouping the costs of the dock through previous rulemakings.

** District One collected $146,424.01 with an authorized 3% surcharge in 2014. The adjustment represents the difference between the collected amount and the authorized amount of $48,995 authorized in the 2014 final rule.

Note: Numbers may not total due to rounding.

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2013	District Two		
	Area 4 undesignated	Area 5 designated	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$84,164	$126,246	$210,410
License insurance	6,168	9,252	15,420
Payroll taxes	44,931	67,397	112,328
Other	33,021	49,532	82,553
Total other pilotage costs	168,284	252,427	420,711

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2013	District Two		
	Area 4 undesignated	Area 5 designated	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Pilot Boat and Dispatch Costs:			
Pilot boat expense	142,936	214,405	357,341
Dispatch expense	7,080	10,620	17,700
Employee benefits	60,665	90,997	151,662
Payroll taxes	8,316	12,474	20,790
Total pilot and dispatch costs	218,997	328,496	547,493
Administrative Expenses:			
Legal—general counsel	3,414	5,122	8,536
Legal—shared counsel (K&L Gates)	7,304	10,956	18,260
Legal—USCG litigation	231	346	577
Office rent	26,275	39,413	65,688
Insurance	9,175	13,762	22,937
Employee benefits	20,586	30,879	51,465
Payroll taxes	4,899	7,349	12,248
Other taxes	14,812	22,217	37,029
Depreciation/auto leasing/other	22,956	34,434	57,390
Interest	3,439	5,159	8,598
APA Dues	8,208	12,312	20,520
Utilities	14,310	21,465	35,775
Salaries	42,633	63,949	106,582
Accounting/Professional fees	9,294	13,940	23,234
Pilot Training			
Other	9,757	14,638	24,395
Total Administrative Expenses	197,293	295,941	493,234
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	584,574	876,864	1,461,438
Proposed Adjustments (Independent CPA):			
Insurance	(2,362)	(3,544)	(5,906)
Employee benefits	(360)	(541)	(901)
Depreciation/auto leasing/other	(6,391)	(9,587)	(15,978)
TOTAL CPA ADJUSTMENTS	(9,113)	(13,672)	(22,785)
Proposed Adjustments (Director):			
APA Dues	(1,231)	(1,847)	(3,078)
Legal—shared counsel (K&L Gates)	(7,304)	(10,956)	(18,260)
Legal—USCG litigation	(231)	(346)	(577)
TOTAL DIRECTOR'S ADJUSTMENTS	(8,766)	(13,149)	(21,915)
Total Operating Expenses (OpEx + Adjustments)	566,695	850,043	1,416,738

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE

Recognizable expenses	District Three		
Reported expenses for 2013	Areas 6 and 8 undesignated	Area 7 Designated	Total
	Lakes Huron, Michigan, and Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$337,978	$112,660	$450,638
License insurance	13,849	4,616	18,465
Payroll taxes			
Other	15,664	5,221	20,885
Total other pilotage costs	367,491	122,497	489,988
Pilot Boat and Dispatch Costs:			
Pilot boat expense	435,353	145,118	580,471
Dispatch expense	140,440	46,814	187,254
Payroll taxes	15,680	5,227	20,907
Total pilot and dispatch costs	591,473	197,159	788,632

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Recognizable expenses	District Three		
Reported expenses for 2013	Areas 6 and 8 undesignated	Area 7 Designated	Total
	Lakes Huron, Michigan, and Superior	St. Mary's River	
Administrative Expenses:			
Legal—general counsel	567	189	756
Legal—shared counsel (K&L Gates)	20,260	6,754	27,014
Office rent	7,425	2,475	9,900
Insurance	8,098	2,699	10,797
Employee benefits	123,002	41,001	164,003
Payroll taxes	10,272	3,424	13,696
Other taxes	1,383	461	1,844
Depreciation/auto leasing/other	24,237	8,079	32,316
Interest	2,403	801	3,204
APA Dues	18,895	6,299	25,194
Dues and subscriptions	4,275	1,425	5,700
Utilities	32,672	10,891	43,563
Salaries	89,192	29,731	118,923
Accounting/Professional fees	20,682	6,894	27,576
Pilot Training			
Other	11,260	3,753	15,013
Total Administrative Expenses	374,623	124,876	499,499
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,333,587	444,532	1,778,119
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	(5,183)	(1,728)	(6,911)
Payroll taxes	103,864	34,621	138,485
Dues and subscriptions	(4,275)	(1,425)	(5,700)
TOTAL CPA ADJUSTMENTS	94,406	31,468	125,874
Proposed Adjustments (Director):			
APA Dues	(2,834)	(945)	(3,779)
Legal—shared counsel (K&L Gates)	(20,260)	(6,754)	(27,014)
TOTAL DIRECTOR'S ADJUSTMENTS	(23,094)	(7,699)	(30,793)
Total Operating Expenses (OpEx + Adjustments)	1,404,899	468,301	1,873,200

Project next year's operating expenses, adjusting for inflation or deflation (proposed § 404.102). We based our 2014 and 2015 inflation adjustments on BLS data from the Consumer Price Index for the Midwest Region of the United States,[39] and projected it for 2016 based on the target inflation rate set by the Federal Reserve.[40] The adjustments are shown in Tables 5 through 7.

TABLE 5—INFLATION ADJUSTMENT, DISTRICT ONE

	District 1		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$681,347	$484,368	$1,165,715
2014 Inflation Modification (@1.4%)	9,539	6,781	16,320
2015 Inflation Modification (@1.5%)	10,363	7,367	17,731
2016 Inflation Modification (@2%)	14,025	9,970	23,995
Adjusted 2016 Operating Expenses	715,274	508,486	1,223,760

[39] Available at *http://www.bls.gov/data.* Select ''One Screen Data Search'' under ''All Urban Consumers (Current Series) (Consumer Price Index—CPI)''. Then select ''Midwest urban'' from Box 1 and ''All Items'' from Box 2. Our numbers for 2014 and 2015 are generated through this query and formatted to show annual percentage changes.

[40] Further discussion available on the Federal Reserve target inflation rate is on their Web site at *http://www.federalreserve.gov/newsevents/press/monetary/20120125c.htm* and *http://www.federalreserve.gov/faqs/money_12848.htm.*

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO

	District 2		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$566,695	$850,043	$1,416,738
2014 Inflation Modification (@1.4%)	7,934	11,901	19,834
2015 Inflation Modification (@1.5%)	8,619	12,929	21,549
2016 Inflation Modification (@2%)	11,665	17,497	29,162
Adjusted 2016 Operating Expenses	594,913	892,370	1,487,283

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE

	District 3		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$1,404,899	$468,301	$1,873,200
2014 Inflation Modification (@1.4%)	19,669	6,556	26,225
2015 Inflation Modification (@1.5%)	21,369	7,123	28,491
2016 Inflation Modification (@2%)	28,919	9,640	38,558
Adjusted 2016 Operating Expenses	1,474,855	491,620	1,966,474

Determine number of pilots needed (proposed § 404.103). We first consider if reliable data are available from the five most recent full shipping seasons, in this case the 2010–2014 seasons, to populate a five-season historical multi-year base period. For the reasons we have discussed extensively with stakeholders, we consider 2014 to have been an unreliable outlier season, because of an abnormal 17% increase in shipping traffic, extended ice conditions,[41] and associated significant delays. The 2014 season also made extensive use of double pilotage, the practice of assigning two pilots to a vessel, normally because of unusually hazardous conditions such as ice and the seasonal removal of aids to navigation. We then consider 2009, the most recent season before 2010. Again based on discussions with stakeholders, we must consider 2009 to have been an outlier too, because of abnormally low traffic from the 2008 global recession.[42] We then consider if reliable source data is available before 2009, and conclude that it is not available for years prior to the introduction of GLPMS in 2009. We specifically request public comment on other possible sources of available and reliable data for shipping seasons prior to 2009. Pending receipt of such information, we restrict our multi-year base period to the four shipping seasons 2010 through 2013.

Next, we calculate the average cycle time associated with each pilot assignment, in each area, over the 2010–2013 base period. In the future, we intend to use GLPMS data to track cycle time, but that data is not available for 2010 through 2014. We consider our best source for that base period's cycle time to be the Bridge Hour Definition and Methodology Final Report prepared on the Coast Guard's behalf in June 2013.[43] Although we expect GLPMS data to produce better data in the future, the 2013 report relied heavily on pilot input and drafts were made widely available to the pilots for their review and comment. Table 8 shows the 2013 report's calculation of the pilot work cycle for each area.

TABLE 8—CYCLE TIME, 2013 REPORT

	Trip time (hrs)	Travel (hrs)	Pilot boat transit (hrs)	Delay (hrs)	Admin (hrs)	Total time on assignment (hrs)	Mandatory rest (hrs)	Pilot assignment cycle (hrs)
D1								
Area 1	7.7	2.9	0.3	0.7	0.5	12.1	10	22.1
Area 2	10.4	4.0	0.6	0.9	0.5	16.4	10	26.4
Area 3	Welland Canal Exclusive to Canadian Pilots							
D2								
Area 4	11.1	4.2	0.4	0.7	0.5	16.9	10	26.9
Area 5	6.1	2.3	0.9	0.4	0.5	10.2	10	20.2

[41] The Canadian Great Lakes Pilotage Authority's Annual Report for 2014 states, p. 3: ''Traffic in 2014 increased by 17% over 2013 mainly due to the significant movement of the 2013 Western Canadian grain crop to export markets overseas. The economic recovery of the American economy has also accounted for increased trade in the Great Lakes corridor.'' The Annual Report also states, p. 7, ''[d]elays due to shortages in pilots experienced in 2014 was directly attributable to the increase in traffic being serviced by the existing pool of pilots as well as a higher level of over carried pilots due to the extreme ice conditions experienced at the start of the navigation season.''

[42] *See* [Canadian] Great Lakes Pilotage Authority, Annual Report 2009, p. 2: ''The world economic recession which began in late 2008 and manifested itself in 2009 had a significant effect on ship traffic in the St. Lawrence Seaway/Great Lakes Region where traffic and cargo volumes decreased by 25% from the previous year.''

[43] *Bridge Hour Definition and Methodology Final Report*, MicroSystems Integration, Inc. (June 25, 2013), available in the docket and at *http://www.uscg.mil/hq/cg5/cg552/pilotage.asp.* This analysis is detailed in Appendix B of the report, on page B–10.

TABLE 8—CYCLE TIME, 2013 REPORT—Continued

	Trip time (hrs)	Travel (hrs)	Pilot boat transit (hrs)	Delay (hrs)	Admin (hrs)	Total time on assignment (hrs)	Mandatory rest (hrs)	Pilot assignment cycle (hrs)
D3								
Area 6	22.5	1.6	0.8	1.0	0.5	26.4	10	36.4
Area 7	7.1	1.4	2.2	0.3	0.5	11.5	10	21.5
Area 8	21.6	1.8	1.9	3.3	0.5	29.1	10	39.1

We then determine the average peak late-season traffic demand over the base period, as shown in Table 9. Table 9 also shows the average number of pilots that would have been needed to meet the peak demand, and for comparison purposes shows the average number of needed pilots for the 2010–2013 time period (38) authorized for the pilot associations.

TABLE 9—AVERAGE PEAK TRAFFIC DEMAND AND PILOT REQUIREMENTS, 2010–2013

	District 1		District 2		District 3		
	Area 1 (designated)	Area 2 (undesignated)	Area 4 (undesignated)	Area 5 (designated)	Area 6 (undesignated)	Area 7 (designated)	Area 8 (undesignated)
Average late-season peak assignments per day	5	5	5	5	4	4	4
Average number of pilots needed to meet peak demand (total = 50)	10	5	5	10	6	8	6
Average authorized pilots, 2010–2013 (total = 38)	6	5	4	6	7	4	6
Authorized pilots, 2015 (total = 36)	6	5	4	6	6	4	5

As shown in Table 8, according to the 2013 report cycle time for pilots in designated waters is a little over 20 hours. This implies that, on average in late seasons over the base period, one pilot could move one vessel per day. However, to fully meet peak season demand, the pilot associations must be staffed to provide double pilotage, and Table 9 reflects that doubling in the number of pilots needed in the designated waters of Areas 1, 5, and 7.

Except in extreme circumstances, double pilotage is not required in the open and undesignated waters of Areas 2, 4, 6, and 8, and Table 9 shows no doubling in those areas. However, the Table does show a 50% increase from the one pilot-one vessel standard in undesignated Areas 6 and 8, which are located in the large western Great Lakes. Areas 6 and 8 are not contiguous, but both flank the designated waters of Area 7. Travel times in Areas 6 and 8 are greater than they are in the undesignated waters of smaller Lakes Erie and Ontario, and on average a pilot needs 1.5 days per vessel, not just 1, to move a vessel. Therefore, Table 9 shows 6 pilots, not 4, in each of Areas 6 and 8. This number will ensure that the four ships shown as moving daily through Area 7 could be moved through the undesignated waters at the same rate.

Please note that the addition of Iroquois Lock to the District One change points, previously discussed in connection with our proposed amendment to § 401.450, could eventually support adding pilots in that district, but is not factored into Table 9.

Based on our Table 9 figures, and as shown in Table 10, we find that 50 pilots are needed over the period for which 2016 base rates would be in effect, as opposed to the 36 currently authorized pilots shown in Table 9. Table 10 also shows that based on our best current information we project there to be only 42 fully working and fully compensated pilots (''working pilots'') in 2016. Our goal is to help the pilot associations close the gap between needed pilots and working pilots as soon as possible.

TABLE 10—PILOTS NEEDED; PILOTS PROJECTED TO BE WORKING

	District One	District Two	District Three
Needed pilots, period for which 2016 rates are in effect (total = 50)	15	15	20
Working pilots projected for 2016 (total = 42)	13	12	17

At this time, we see no need to adjust the number of pilots shown in Table 10.

Determine target pilot compensation (proposed § 404.104). Our discussion of our calculations under this section contains two sections, the first section limited to the Coast Guard's own analysis, and the second section discussing target compensation figures proposed by the pilot associations.

Coast Guard analysis and calculations. For this 2016 ratemaking, we considered three sources for possible benchmark compensation data that provide compensation data for occupations similar to that of a Great Lakes pilot. All of these sources provide current and available data that is open for public review: Canadian Laurentian Pilotage Authority (LPA) pilot compensation data; masters, mates and pilots wage data from the BLS, and Canadian GLPA registered pilot compensation. We specifically request public comments suggesting any other current, reliable, and publicly available sources we should consider in setting the 2016 season's target pilot compensation.

Table 11 presents average recent compensations for each of these three sources.

TABLE 11—COMPARING PILOT COMPENSATION AND WAGE INFORMATION

	Average Canadian registered pilot compensation [44] (CAD)	Average Laurentian pilot compensation (CAD) [45]	Bureau of Labor Statistics Wages [46] (USD)
2011	$233,567	$335,864	$73,590
2012	247,145	347,615	78,030
2013	268,552	349,022	80,960
2014	323,641	....	75,000
Average	268,226	344,167	76,895

We evaluated the suitability of each of these sources as a benchmark for setting our target pilot compensation.

The LPA services all vessels that ultimately transit through the Saint Lawrence River and Great Lakes. The majority of their pilotage service is provided primarily to vessels that stop in Montreal, which are typically larger than vessels that proceed upbound into the Great Lakes. The LPA also provides service throughout the year, whereas Great Lakes navigation is closed for a portion of the year due to ice conditions and lock maintenance. Due to these differences between LPA and U.S. Great Lakes pilotage conditions, we find LPA compensation information unsuitable as a benchmark for setting target U.S. pilot compensation.

BLS data for masters, mates, and pilots cover officers whose duties and responsibilities are different from those of a U.S. Great Lakes pilot. For example, unlike U.S. Great Lakes pilots, most of these officers are not directly responsible for the safe navigation of vessels of any tonnage through restricted waters. Further, this data is skewed downward by the higher number of lower wage mates, who do not hold the same licenses as masters and pilots. Therefore, we find this information is also unsuitable as a benchmark for setting target pilot compensation.

Canadian GLPA pilots provide service that is almost identical to the service provided by U.S. Great Lakes pilots. However, unlike the U.S. pilots, Canadian GLPA pilots are Canadian government employees and therefore have guaranteed minimum compensation with increases for high-traffic periods, retirement, healthcare and vacation benefits, and limited professional liability. In addition, GLPA pilots have guaranteed time off while U.S. pilots must be available for service throughout the shipping season and without any guaranteed time off; and due to historic staffing differences U.S. pilots get less time off than GLPA pilots. Nevertheless, because they work under the same conditions, months, and vessels (sometimes concurrently) as the U.S. pilots, we find that GLPA compensation information is the most suitable available benchmark for establishing target pilot compensation.

The calculations shown in Tables 12 through 14 take the last four years of GLPA data (covering actual compensation, 2011 through 2014), adjust for foreign exchange differences and inflation,[47] and project future GLPA compensation for 2015 and 2016.

Table 12 shows GLPA compensation for 2011 through 2014, adjusted for exchange rates in each year.

TABLE 12—RECENT HISTORY OF CANADIAN GLPA PILOT COMPENSATION

Year	Canadian Great Lakes pilot compensation (CAD)	Average annual currency conversion (CAD to USD)*	Canadian Great Lakes pilot compensation (USD)
2014	$323,641	1.149	$281,672
2013	268,552	1.071	250,749
2012	247,145	1.04	237,639,639
2011	233,567	1.029	226,984

*All figures reflect annual average currency conversions for the time periods provided. CAD is divided by the listed currency conversion factor to convert to USD. A complete table of these exchange rates is provided by the Internal Revenue Service here: *http://www.irs.gov/Individuals/International-Taxpayers/Yearly-Average-Currency-Exchange-Rates.*

Table 13 takes the figures from Table 12 and adjusts them for inflation in each year, similar to way Tables 5–7 adjust U.S. pilot association operating expenses.

[44] *http://www.glpa-apgl.com/annualReports_e.asp.*

[45] *http://www.pilotagestlaurent.gc.ca/publications_e.asp.*

[46] *http://www.bls.gov/oes*—Captains, Mates, and Pilots of Water Vessels (*http://www.bls.gov/oes/current/naics4_483100.htm*—53–5021).

[47] Based on Midwest CPI–U from BLS. Available at *http://www.bls.gov/data.* Select ''One Screen Data Search'' under ''All Urban Consumers (Current Series) (Consumer Price Index—CPI)''. Then select ''Midwest urban'' from Box 1 and ''All Items'' from Box 2. Our numbers for 2011–2014 are generated through this query and formatted to show annual percentage changes.

TABLE 13—INFLATION ADJUSTMENTS

Year	USD (from Table 11)	2012 Inflation adjustment (@3.2%)	2013 Inflation adjustment (@2%)	2014 Inflation adjustment (@1.4%)	2015 Inflation adjustment (@1.5%)	2016 Inflation projection (@2%)*	Total (2016 USD)
2014	$281,672				$4,225	$5,633	$291,531
2013	250,749			$3,510	3,761	5,015	263,036
2012	237,639		$4,753	3,327	3,565	4,753	254,036
2011	226,984	$7,263	4,540	3,178	3,405	4,540	249,909

See footnote 44 on previous page for supporting inflation data.
*See previous discussion on Federal Reserve target inflation rate for 2016 projections. See also policy statement of the Bank of Canada regarding their 2% target inflation rate at *http://www.bankofcanada.ca/core-functions/monetary-policy/inflation/.*

Using this data, converted to 2016 USD, we then review the percentage change in Canadian compensation.

TABLE 14—ANALYSIS OF CANADIAN GLPA PILOT COMPENSATION

Year	Canadian Great Lakes pilot compensation (from Table 12)	Percent change
2014	$291,531	10.8
2013	63,036	3.5
2012	254,037	1.7
2011	249,910	

We are basing our target pilot compensation calculations on 2013 GLPA compensation. We think 2013 provides more reliable current benchmark information than 2014. There is a moderate annual growth in compensation between 2011 and 2013, but a significant nearly 11% increase in 2014. We believe that increase is attributable to a 17% Canadian traffic increase in 2014, compounded by extended ice conditions.

Table 14 shows that, from the 2013 figure of $263,036, we project forward an annual 2.6% increase to align with the general trend of compensation increases for Canadian pilots. This is an average of the increases from 2012 and 2013. Table 15 shows the results of these calculations:

TABLE 15—PROJECTED INCREASES IN CANADIAN GREAT LAKES PILOT COMPENSATION

Year	Projected Canadian Great Lakes pilot compensation (2016 USD)*
2016	$284,091
2015	276,892
2014	269,875
2013	263,036

*All figures from 2014 forward are projections only for the purposes of this rulemaking and do not reflect actual Canadian compensation. Each year is increased 2.6% in line with average compensation increases in 2012 and 2013.

As previously discussed, the difference in status between GLPA employees and independent U.S. pilots creates significant differences in their relative compensation. These differences constitute supportable circumstances for adjusting U.S. target pilot compensation by increasing it 10% over our projected 2016 GLPA compensation figure, taking our proposed U.S. individual target pilot compensation to $312,500. Although the appropriateness of 10% as an adjustment figure was not put to a vote, that figure and no other was cited by several speakers at GLPAC's July 2014 meeting [48] as balancing the different status of the U.S. and GLPA pilots. We invite public comment on whether the 10% adjustment figure is appropriate for the 2016 rate.

Table 16 shows the total target compensation for each district, the result of multiplying our proposed individual target compensation of $312,500 by the number of working pilots shown in Table 10. Our proposed total target pilot compensation for 2016 is $13,125,000.

TABLE 16—TOTAL TARGET PILOT COMPENSATION PER DISTRICT

	District One	District Two	District Three
Target compensation per pilot	$312,500	$312,500	$312,500
Number of working pilots	13	12	17
Total target pilot compensation (total, all districts = $13,125,000)	$4,062,500	$3,750,000	$5,312,500

At this time, and subject to the public comments that we specifically request on this point, we find no economic data that supplies supportable circumstances for additional adjustments to target pilot compensation.

Pilot association proposals. Prior to preparing this NPRM, we discussed the determination of target pilot compensation with GLPAC and with the pilot associations. At its July 2014 meetings, GLPAC considered and rejected, by a vote of 4 to 2 with no abstentions, a proposed individual target pilot compensation starting at $295,000. We interpreted the $295,000 figure to represent total compensation, including both wages and benefits.[49]

On May 8, 2015, the pilot associations requested that we consider $355,000 as an individual target pilot compensation figure, which they said would not guarantee, but might ensure, a sufficient amount to attract reasonable pilot

[48] Transcript (7/24/2014), pp. 43–45.

[49] Transcript (7/24/2014), p. 45. Discussion begins on p. 20. Under 46 U.S.C. 9307(d)(3), GLPAC recommendations require approval by "at least all but one of the members then serving on the committee;" hence a 4–2 vote does not pass. For the Coast Guard's grounds for interpreting "compensation" to include both wages and benefits, and not wages alone, *see* pp. 43–45 of the transcript.

candidates and retain current pilots. This request was accompanied by an enclosure supporting a minimum target figure of almost $394,000.[50] In support of the $394,000 figure, the pilots cite the $295,000 compensation that a majority (but not the required super-majority)[51] of GLPAC members supported in July 2014. The pilots interpreted the $295,000 figure to include wages only, not benefits. To that figure, they add the benefit amounts used in our 2012 ratemaking, which ranged from $64,678 in undesignated waters to $73,639 in designated waters. They then adjust the wage and benefit figures for inflation to arrive at a total minimum compensation of approximately $394,000.

At this time, we decline to adopt either of the pilots' proposed amounts. To the extent they rely on the $295,000 compensation figure considered, and majority-approved but officially rejected by GLPAC, we do not accept the pilots' contention that GLPAC discussed that figure in the context of wages only, and not benefits; we believe the discussion considered total compensation, both wages and benefits. We also note that our proposed individual target pilot compensation, $312,500, is 10% higher than what we project as 2016 GLPA individual pilot compensation. By contrast, $355,000 would be about 25% higher than the GLPA compensation, and $394,000 would be about 39% higher; we question whether such large disparities can be justified. We specifically request public comment and supporting data on the pilot associations' proposal for setting the 2016 individual target pilot compensation.

Determine return on investment (proposed § 404.105). The 2013 average annual rate of return for new issues of high-grade corporate securities was 4.24 percent.[52] We apply that rate to each district's projected total operating and compensation expenses (from §§ 404.102 and 404.104) to determine the allowed return on investment for the shipping season, as shown in Table 17.

TABLE 17—DETERMINATION OF RETURN ON INVESTMENT

	District 1		District 2		District 3	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Adjusted Operating Expenses (Step 2) ...	$715,274	$508,486	$594,913	$892,370	$1,474,855	$491,620
Total Target Pilot Compensation (Step 4)	2,187,500	1,875,000	1,562,500	2,187,500	3,437,500	1,875,000
Total 2016 Expenses	2,902,774	2,383,486	2,157,413	3,079,870	4,912,355	2,366,620
Return on Investment (4.24%)	123,078	101,060	91,474	130,587	208,284	100,345

Project needed revenue for next year (proposed § 404.106). Table 18 shows each association's needed revenue, determined by adding the proposed § 404.102 operating expense, the proposed § 404.104 total target compensation, and the proposed § 404.105 return on investment. Across all three districts, the projected needed revenue for 2016 is $18,557,345, up actual revenue of $10,899,506 reported in our 2013 audits.

TABLE 18—REVENUE NEEDED

	District 1		District 2		District 3	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Adjusted Operating Expenses (Step 2) ...	$715,274	$508,486	$594,913	$892,370	$1,474,855	$491,620
Total Target Pilot Compensation (Step 4)	2,187,500	1,875,000	1,562,500	2,187,500	3,437,500	1,875,000
Return on Investment (Step 5)	123,078	101,060	91,474	130,587	208,284	100,345
Total Revenue Needed (Total for all districts = $18,557,345)	3,025,852	2,484,546	2,248,887	3,210,457	5,120,638	2,466,965

Make initial base rate calculations (proposed § 404.107). To make our initial base rate calculations, we first establish a multi-year base period from which available and reliable data for actual pilot hours worked in each district's designated and undesignated waters can be drawn. As discussed in connection with our calculations for proposed § 404.103, and for the same reasons, for 2016 our multi-year base period covers the four shipping seasons from 2010 through 2013.

TABLE 19—HOURS WORKED, 2010–2013, DESIGNATED AND UNDESIGNATED WATERS

Year	Pilotage district					
	D1 Designated waters (hours)	D1 Undesignated waters (hours)	D2 Designated waters (hours)	D2 Undesignated waters (hours)	D3 Designated waters (hours)	D3 Undesignated waters (hours)
2010	4,839	5,649	5,235	5,565	2,461	20,211
2011	5,045	5,377	3,680	3,708	1,678	16,012
2012	4,771	5,121	3,922	3,848	2,163	15,906
2013	5,864	5,529	4,750	4,603	2,361	17,115

[50] Email, Capt. John Boyce, President, St. Lawrence Seaway Pilots Association, to Director, Great Lakes Pilotage, May 8, 2015. The actual figure stated in the enclosure to this email is $393,996, which we round for convenience to $394,000.

[51] 46 U.S.C. 9307(d)(3).

[52] Based on Moody's AAA corporate bonds, which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

TABLE 19—HOURS WORKED, 2010–2013, DESIGNATED AND UNDESIGNATED WATERS—Continued

Year	Pilotage district					
	D1 Designated waters (hours)	D1 Undesignated waters (hours)	D2 Designated waters (hours)	D2 Undesignated waters (hours)	D3 Designated waters (hours)	D3 Undesignated waters (hours)
Average	5,130	5,419	4,397	4,431	2,166	17,311

Table 20 calculates new rates by dividing each association's projected needed revenue, from § 404.106, by the average hours shown in Table 19 and rounding to the nearest whole number.

TABLE 20—RATE CALCULATIONS

	District 1		District 2		District 3	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Revenue Needed (Step 66)	$3,025,852	$2,484,546	$2,248,887	$3,210,457	$5,120,638	$2,466,965
Average time on task 2010–2013	5,130	5,419	4,431	4,397	17,311	2,166
Hourly Rate	$590	$458	$508	$730	$296	$1,139

Table 20 shows that the District 3 rate for designated waters would be more than twice the rate for undesignated waters. Therefore, as discussed earlier under this proposed section, we apply a ratio to adjust the balance between these rates so that the rate for designated waters is no more than twice the rate for undesignated waters, as shown in Table 21, rounded to the nearest whole number.

TABLE 21—DISTRICT 3—CAPPED DESIGNATED WATERS RATE

	District 3	
	Areas 6, 8 undesignated	Area 7 designated
Revenue Needed	$6,068,890	$1,518,713
Projected Pilotage Demand	17,311	2,166
Hourly Rate	$351	$701

Review and finalize rates (proposed § 404.108). As we noted in our discussion of Table 9 under proposed § 404.103, we are working with the pilotage associations to close a significant gap between the number of pilots needed and the working pilots we expect to be working full-time and fully compensated in 2016. Closing the gap entails training new applicant pilots, at considerable expense to the associations. Ongoing training for current pilots is also an important element of providing safe, efficient, and reliable pilotage service. Ordinarily, current training expenses would not be recognized for several years, which would reduce funds available for other immediate association expenses. We find that the importance of training, both to help achieve a full complement of needed pilots and to ensure skill maintenance and development for current pilots, is a supportable circumstance for imposing a necessary and reasonable temporary surcharge for 2016, as authorized by 46 CFR 401.401, allowing each association to recoup necessary and reasonable training expenses incurred. We anticipate that there will be 2 applicant pilots in each district for 2016, as we continue advancing towards our pilot strength goals. Based on historic pilot costs, the stipend, per diem, and training costs for each applicant pilot are approximately $150,000. Thus, we estimate that the training expenses that each association will incur will be approximately $300,000. Table 22 derives the proposed percentage surcharge for each district by comparing this estimate to each district's projected needed revenue.

TABLE 22—SURCHARGE CALCULATION BY DISTRICT

	District 1	District 2	District 3
Projected Needed Revenue (§ 404.106)	$5,510,398	$5,459,344	$7,587,603
Anticipated Training Expenses	$300,000	$300,000	$300,000
Surcharge Needed *	6%	6%	4%

* All surcharge calculations are rounded up to the nearest whole percentage.

At the conclusion of the 2016 shipping season, we would account for actual surcharge revenue and make adjustments as necessary to the operating expenses for the following year.

VII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 13563 and 12866 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 effects, 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 proposed rule has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB). We consider all estimates and analysis in this Regulatory Analysis to be subject to change in consideration of public comments.

The following table summarizes the affected population, costs, and benefits of the proposed rule.

TABLE 23—SUMMARY OF REGULATORY ECONOMIC IMPACTS

Proposed changes	Description	Affected population	Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, Coast Guard is required to review and adjust base pilotage rates annually.	126 vessels journeying the Great Lakes system annually.	$7,168,152	—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 makes enough money to fund future improvements.
Procedural Changes.	Proposed changes to the annual ratemaking methodology.	3 pilot associations	No additional cost	—Provide maximum transparency and simplicity in the ratemaking methodology. —Make submitting data easier for pilots and more accurate.

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 2016 shipping season to generate for each district sufficient revenues to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate profit 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 of approximately $6,268,152 across all three districts over 2015 payments (Table 24).

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 2016. We estimate that each district will incur $300,000 in training expenses. These temporary surcharges would generate a combined $900,000 in revenue for the pilotage associations across all three districts.

Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the annual payments made by shippers during the 2016 shipping season are estimated to be approximately $7,168,152 more than the payments that were made in 2015 (Table 24).[53]

A draft regulatory assessment follows.

This proposed rulemaking proposes revisions to the annual ratemaking methodology (procedural changes), and applies the proposed ratemaking methodology to increase Great Lakes pilotage rates and surcharges from the current rates set in the 2015 final rule (rate changes). The proposed methodology is discussed and applied in detail in Parts V and VI of this preamble. The last full ratemaking was concluded in 2015. The last annual rate review, conducted under 46 CFR part 404, appendix C, was completed early in 2011.

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 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.

We used 2012–2014 vessel arrival data from the Coast Guard's Ship Arrival Notification System (SANS) to estimate the average annual number of vessels affected by the rate adjustment. Using that period, we found that a mean of 126 vessels journeyed into the Great Lakes system annually from the years 2012–2014. These vessels entered the Great Lakes by transiting 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 126 vessels, there were 396 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2012–2014 vessel data from SANS.

The procedural changes are the proposed revisions to the annual ratemaking methodology and several Great Lakes pilotage regulations. These procedural changes are intended to clarify and simplify the current methodology, and increase the accuracy

[53] 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.

of collecting information on each pilot association's expenses and revenues in order to lower the variance between projected revenue and actual revenue. However, the rate changes resulting from the new methodology would generate costs on industry in the form of higher payments for shippers. The effect of the rate changes on shippers is estimated from the District pilotage revenues. These revenues represent the costs that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage for these services.

We estimate the effect of the rate changes by comparing the total projected revenues needed to cover costs in 2015 with the figures for 2016, plus the temporary surcharges authorized by the Coast Guard. The last full year for which we have reported and audited financial information for the pilot association expenses is 2013, as discussed in Section VI of this preamble. We projected 2015 revenues using the rate increases set in the 2014 and 2015 final rules. The 2014 final rule [54] increased rates by 2.5 percent and the 2015 final rule [55] increased rates by 10 percent. Table 24 shows the 2015 revenue projections.

TABLE 24—REVENUE ADJUSTMENT

Area	2013 Revenue (audited)	2014 Revenue adjustment (2.5%)	2015 Revenue adjustment (10%)	Total 2015 projected revenue
D1 Designated	$1,990,865	$49,772	$204,064	$2,244,700
D1 Undesignated	1,415,299	35,382	145,068	1,595,750
Total, District 1	3,406,164	85,154	349,132	3,840,450
D2 Undesignated	1,267,750	31,694	129,944	1,429,388
D2 Designated	1,901,627	47,541	194,917	2,144,085
Total, District 2	3,169,377	79,234	324,861	3,573,473
D3 Undesignated	3,242,971	81,074	332,405	3,656,450
D3 Designated	1,080,994	27,025	110,802	1,218,821
Total, District 3	4,323,965	108,099	443,206	4,875,271
System Total	$10,899,506	$272,488	$1,117,199	$12,289,193

Table 25 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 25—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Projected revenue needed in 2015	Projected revenue needed in 2016	Total costs 2015 (2016–2015)	Temporary surcharge	Additional costs or savings of this proposed rule
D1 Designated	$2,244,700	$3,025,852	$781,152		
D1 Undesignated	1,595,750	2,484,546	888,796		
Total, District 1	3,840,450	5,510,398	1,669,948	300,000	1,969,948
D2 Undesignated	1,429,388	2,248,887	819,499		
D2 Designated	2,144,085	3,210,457	1,066,372		
Total, District 2	3,573,473	5,459,344	1,885,871	300,000	2,185,871
D3 Undesignated	3,656,450	5,120,638	1,464,188		
D3 Designated	1,218,821	2,466,965	1,248,144		
Total, District 3	4,875,271	7,587,603	2,712,332	300,000	3,012,332
System Total	12,289,193	18,557,345	6,268,152	900,000	7,168,152

The resulting difference between the projected revenue in 2015 and the projected revenue in 2016 is the annual change in payments from shippers to pilots as a result of the rate change. This figure is equivalent to the total additional payments from the previous year that shippers would incur for pilotage services from this proposed rule.

The effect of the rate change in this proposed rule on shippers varies by area and district. The rate changes would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $1,669,948, $1,885,871, and $2,712,332, respectively, from the previous year.

In addition to the rate changes, temporary surcharges on traffic in

[54] See 79 FR 12084, Great Lakes Pilotage Rates-2014 Annual Review and Adjustment (*https://www.federalregister.gov/articles/2014/03/04/2014-04591/great-lakes-pilotage-rates-2014-annual-review-and-adjustment*).

[55] See 80 FR 10365, Great Lakes Pilotage Rates-2015 Annual Review and Adjustment (*https://www.federalregister.gov/articles/2015/02/26/2015-04036/great-lakes-pilotage-rates-2015-annual-review-and-adjustment*).

District One, District Two, and District Three would be applied for the duration of the 2016 season in order for the pilotage associations to recover training expenses incurred. We estimate that these surcharges would generate an additional $300,000 in revenue for the pilotage associations in each district, for a total additional revenue of $900,000.

To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less, depending on the distance travelled and the number of port arrivals by their vessels. However, the increase in costs reported earlier in this NPRM does capture the adjustment in payments that shippers would experience from the previous year. The overall adjustment in payments, after taking into account the increase in pilotage rates and the addition of temporary surcharges would be an increase in payments by shippers of approximately $7,168,152 across all three districts.

This proposed rule would allow the Coast Guard to meet the requirements in 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 ensuring rates cover an association's operating expenses; provide fair pilot compensation, adequate training, and sufficient rest periods for pilots; and ensures the association makes enough money to fund future improvements. The procedural changes would increase the accuracy of pilotage data by utilizing a uniform financial reporting system (see discussion of 46 CFR 403.300 in Part V of the preamble). The procedural changes will also promote greater transparency and simplicity in the ratemaking methodology through annual revenue audits (see discussion of 46 CFR 404.1 in Part V of the preamble).

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.

We expect that 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 for the period 2012 through 2014 in the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, and we reviewed business revenue and size data provided by publicly available sources such as MANTA [56] and Cortera.[57] We found that large, foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes.

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 total employees. We expect no adverse effect 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 effect 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 effect 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.

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

[57] See *https://www.cortera.com/.*

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. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@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 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) but would adjust the burden for an existing COI number 1625–0086, as described below.

Title: Great Lakes Pilotage.

OMB Control Number: 1625–0086.

Summary of the Collection of Information: The proposed rule would require continued submission of data to an electronic collection system, identified as the Great Lakes Pilotage Management System, which will eventually replace the manual paper submissions currently used to collect data on bridge hours, vessel delay, vessel detention, vessel cancellation, vessel movage, pilot travel, revenues, pilot availability, and related data. Further, this proposed rule will explicitly add the requirement for the pilot associations to provide copies of their paper source forms, or billing forms, until the transfer to electronic submission is available later in 2016. The pilot associations currently provide copies of their source forms, or billing forms, to the Great Lakes Pilotage Division on a monthly basis. These forms are generated by the pilot associations for their own billing purposes.

Need for Information: This information is needed in order to more accurately set future rates.

Proposed Use of Information: We would use this information to comply with the statutory and regulatory requirements regarding the ratemaking and oversight functions imposed upon the agency.

Description of Respondents: The respondents are representatives of the three U.S. pilotage associations on the Great Lakes authorized by the Coast Guard to provide pilotage service, the 42 registered pilots we project for 2016, as well as on average the six individuals that must fill out Form CG–4509 each year to apply for certification as U.S. registered pilots.

Number of Respondents: The estimated number of respondents increases with this proposed rule. We estimate the maximum number of respondents affected by this proposed rule to increase from 9 to 51 per year. This is the sum of three pilot association representatives, six applicant pilots applying for registration by filling out the CG–4509 and 42 projected registered pilots.

Frequency of Response: Frequency dictated by marine traffic levels and association staffing.

Burden of Response: We estimate the burden of response will vary by type of response, from 15 minutes for a pilot to complete the source form to one hour for the pilot association to transmit the source forms to the Coast Guard.

Estimate of Annual Burden: We estimate the total annual burden will increase from 19 to 2129.5.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect this information.

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 that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis is explained below.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' 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 CONTACT** 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 (15 U.S.C. 272, note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the 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 Management Directive 023–01 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 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 proposed 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

46 CFR part 401

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

46 CFR Part 403

Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen, Uniform System of Accounts.

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, 403, and 404 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

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

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

■ 2. Revise § 401.405 to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on:

(1) The St. Lawrence River is $590;

(2) Lake Ontario is $458;

(3) Lake Erie is $508;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $730;

(5) Lakes Huron, Michigan, and Superior is $351; and

(6) The St. Mary's River is $701.

(b) The pilotage charge is calculated by multiplying the hourly rate by the hours or fraction thereof (rounded to the nearest 15 minutes) that the registered pilot is on the bridge or available to the master of the vessel, multiplied by the weighting factor shown in § 401.400.

§ 401.407 [Removed]

■ 3. Remove § 401.407.

§ 401.410 [Removed]

■ 4. Remove § 401.410.

■ 5. Revise § 401.420 to read as follows:

§ 401.420 Cancellation, delay, or interruption in rendition of services.

(a) Except as otherwise provided in this section, a vessel can be charged as authorized in § 401.405 for the waters in which the event takes place, if:

(1) A U.S. pilot is retained on board while a vessel's passage is interrupted;

(2) A U.S. pilot's departure from the vessel after the end of an assignment is delayed, and the pilot is detained on board, for the vessel's convenience; or

(3) A vessel's departure or movage is delayed, for the vessel's convenience, beyond the time that a U.S. pilot is scheduled to report for duty, or reports for duty as ordered, whichever is later.

(b) When an order for a U.S. pilot's service is cancelled after that pilot has begun traveling to the designated pickup place, the vessel can be charged for the pilot's reasonable travel expenses to and from the pilot's base; and the vessel can be charged for the time between the pilot's scheduled arrival, or the pilot's reporting for duty as ordered, whichever is later, and the time of cancellation.

(c) Between May 1 and November 30, a vessel is not liable for charges under paragraph (a)(1) or (2) of this section, if the interruption or detention was caused by ice, weather, or traffic.

(d) A pilotage charge made under this section takes the place and precludes payment of any charge that otherwise could be made under § 401.405.

■ 6. Revise § 401.428 to read as follows:

§ 401.428 Boarding or discharging a pilot other than at designated points.

For a situation in which a vessel boards or discharges a U.S. pilot at a point not designated in § 401.450, it could incur additional charges as follows:

(a) Charges for the pilot's reasonable travel expenses to or from the pilot's base, if the situation occurs for reasons outside of the vessel's control, for example for a reason listed in § 401.420(c); or

(b) Charges for associated hourly charges under § 401.405, as well as the pilot's travel expenses as described in paragraph (a) of this section, if the situation takes place for the convenience of the vessel.

■ 7. In § 401.450, redesignate paragraphs (b) through (j) as (c) through (k), and add paragraph (b) to read as follows:

§ 401.450 Pilot change points.

* * * * *

(b) Iroquois Lock;

* * * * *

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

■ 8. The authority citation for part 403 is revised 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.d), (92.e), (92.f).

§ 403.120 [Removed]

■ 9. Remove § 403.120.

■ 10. Revise § 403.300 to read as follows:

§ 403.300 Financial reporting requirements.

(a) Each association must maintain records for dispatching, billing, and invoicing, and make them available for Director inspection, using the system currently approved by the Director.

(b) Each association must submit the compiled financial data and any other required statistical data, and written certification of the data's accuracy signed by an officer of the association, to the Director within 30 days of the end of the annual reporting period, unless otherwise authorized by the Director.

(c) By April 1 of each year, each association must obtain an unqualified audit report for the preceding year, audited and prepared in accordance with generally accepted accounting standards by an independent certified public accountant, and electronically submit that report with any associated settlement statements to the Director by April 7.

■ 11. Revise § 403.400 to read as follows:

§ 403.400 Uniform pilot's source form.

(a) Each association must record pilotage transactions using the system currently approved by the Director.

(b) Each pilot must complete a source form in detail as soon as possible after completion of an assignment, with adequate support for reimbursable travel expenses.

(c) Upon receipt, each association must complete the source form by inserting the rates and charges specified in 46 CFR part 401.

■ 12. Revise part 404 to read as follows:

PART 404—GREAT LAKES PILOTAGE RATEMAKING

Sec.

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

§ 404.1 General ratemaking provisions.

(a) The goal of ratemaking is to promote safe, efficient, and reliable pilotage service on the Great Lakes, by generating for each pilotage association sufficient revenue to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate profit to use for improvements.

(b) Annual reviews of pilotage association expenses and revenue will be conducted in conjunction with an independent party, and data from completed reviews will be used in ratemaking under this part.

(c) Full ratemakings to establish multi-year base rates and interim year reviews and adjustments will be conducted in accordance with § 404.100.

§ 404.2 Procedure and criteria for recognizing association expenses.

(a) A pilotage association must report each expense item for which it seeks reimbursement through the charging of pilotage rates, and make supporting information available to the Director. The Director must recognize the item as both necessary for providing pilotage service, and reasonable as to its amount when compared to similar expenses paid by others in the maritime or other comparable industry, or when compared with Internal Revenue Service guidelines. The association will be given an opportunity to contest any preliminary determination that a reported item should not be recognized.

(b) The Director applies the following criteria to recognize an expense item as necessary and reasonable within the meaning of paragraph (a) of this section:

(1) *Operating or capital lease costs.* Conformity to market rates, or in the absence of a comparable market, conformity to depreciation plus an allowance for return on investment, computed as if the asset had been purchased with equity capital.

(2) *Return-on-investment.* A market equivalent return-on-investment is allowed for the net capital invested in the association by its members, if that investment is necessary for providing pilotage service.

(3) *Transactions not directly related to providing pilotage services.* Revenues and expenses generated from these transactions are included in ratemaking calculations as long as the revenues exceed the expenses. If these transactions adversely affect providing pilotage services, the Director may make rate adjustments or take other steps to ensure pilotage service is provided.

(4) *Pilot benefits.* Association-paid benefits, including medical and pension benefits and profit sharing, are treated as pilot compensation.

(5) *Profit sharing for non-pilot association employees.* These association expenses are recognizable.

(6) *Legal expenses.* These association expenses are recognizable except for any and all expenses associated with legal action against the U.S. government or its agents.

(c) The Director does not recognize the following expense items as necessary and reasonable within the meaning of paragraph (a) of this section:

(1) Unreported or undocumented expenses, and expenses that are not reasonable in their amounts or not reasonably related to providing safe, efficient, and reliable pilotage service;

(2) Revenues and expenses from Canadian pilots that are commingled with revenues and expenses from U.S. pilots;

(3) Lobbying expenses; or

(4) Expenses for personal matters.

§§ 404.3 through 404.99 [Reserved]

§ 404.100 Ratemaking and annual reviews in general.

(a) The Director establishes base pilotage rates by a full ratemaking pursuant to §§ 404.101 through 404.108, 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).

(b) In the interim years preceding the next scheduled full rate review, the Director will review the existing rates to ensure that they continue to meet the goal specified in § 404.1(a). If interim-year adjustments are needed, they will be set according to one of the following procedures, selected as the Director deems best suited to adjust the rates to meet that goal:

(1) Automatic annual adjustments, set during the previous full rate review in anticipation of economic trends over the term of the rates set by that review;

(2) Annual adjustments reflecting consumer price changes as documented in the U.S. Bureau of Labor Statistics Midwest Region Consumer Price Index (CPI–U); or

(3) A new full ratemaking.

§ 404.101 Ratemaking step 1: Recognize previous operating expenses.

The Director uses an independent third party to review each pilotage association's expenses, as reported and audited for the last full year for which figures are available, and determines which expense items to recognize for base ratemaking purposes in accordance with § 404.2.

§ 404.102 Ratemaking step 2: Project operating expenses, adjusting for inflation or deflation.

The Director projects the base year's non-compensation operating expenses for each pilotage association, using recognized operating expense items from § 404.101. Recognized operating expense items subject to inflation or deflation factors are adjusted for those factors based on the subsequent year's U.S. government consumer price index data for the Midwest, projected through the year in which the new base rates take effect.

§ 404.103 Ratemaking step 3: Determine number of pilots needed.

(a) 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:

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

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

(3) Assignment delays and detentions;

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

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

(6) 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

(7) Pilotage-related training.

(b) Peak pilotage demand and the base seasonal work standard are based on averaged available and reliable data, as so deemed by the Director, for a multi-year base period. Normally, the multi-year period is the five 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.

(c) 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.

(d) 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 during the first year of the period for which base rates are being established.

§ 404.104 Ratemaking step 4: Determine target pilot compensation.

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. The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation by the number of pilots projected under § 404.103(d).

§ 404.105 Ratemaking step 5: Project return on investment.

The Director calculates each pilotage association's allowed base return on investment by adding the projected adjusted operating expenses from § 404.102 and the total target pilot compensation from § 404.104, multiplied by the preceding year's average annual rate of return for new issues of high grade corporate securities.

§ 404.106 Ratemaking step 6: Project needed revenue.

The Director calculates each pilotage association's base projected needed revenue by adding the projected adjusted operating expenses from § 404.102, the total target pilot compensation from § 404.104, and the projected return on investment from § 404.105.

§ 404.107 Ratemaking step 7: Initially calculate base rates.

(a) The Director initially calculates base hourly rates by dividing the projected needed revenue from § 404.106 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 § 404.103(b).

(b) If the result of this calculation initially shows an hourly rate for the designated waters of a district that would exceed twice the hourly rate for undesignated waters, the initial designated-waters rate will be adjusted so as not to exceed twice the hourly undesignated-waters rate. The adjustment is a reallocation only and will not increase or decrease the amount of revenue needed in the affected district.

§ 404.108 Ratemaking step 8: Review and finalize rates.

The Director reviews the base pilotage rates initially set in § 404.107 to ensure they meet the goal set in § 404.1(a), and either finalizes them or first makes necessary and reasonable adjustments to them based on requirements of Great Lakes pilotage agreements between the United States and Canada, or other supportable circumstances. Adjustments will be made consistently with § 404.107(b).

Gary C. Rasicot,

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

[FR Doc. 2015–22895 Filed 9–8–15; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150708591–5591–01]

RIN 0648–XE043

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to implement annual management measures and harvest specifications to establish the allowable catch levels (*i.e.* annual catch limit (ACL)/harvest guideline (HG)) for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of July 1, 2015, through June 30, 2016. This rule is proposed pursuant to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The proposed 2015–2016 HG for Pacific mackerel is 21,469 metric tons (mt). This is the total commercial fishing target level. This action also proposes an annual catch target (ACT), of 20,469 mt. If the fishery attains the ACT, the directed fishery will close, reserving the difference between the HG (21,469 mt) and ACT as a 1,000 mt set-aside for incidental landings in other CPS fisheries and other sources of mortality. This proposed rule is intended to conserve and manage the Pacific mackerel stock off the U.S. West Coast.