9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG-2013-0534]

1625-AC07

Great Lakes Pilotage Rates - 2014 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes rate adjustments for pilotage services on the Great Lakes, which were last amended in February 2013. The proposed adjustments would establish new base rates and are made in accordance with a full ratemaking procedure. The proposed update reflects the Coast Guard exercising the discretion provided by Step 7 of the Appendix A methodology. The result is an upward adjustment to match the rate increase of the Canadian Great Lakes Pilotage Authority. We also propose adjusting weighting factors used to determine rates for vessels of different size, providing a procedure for temporary surcharges, and including dues paid to the American Pilots Association. This notice of proposed rulemaking promotes the Coast Guard's strategic goal of maritime safety.

DATES: Comments and related material must either be submitted to our online docket via http://www.regulations.gov on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or reach the Docket

Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2013-0534 using any one of the following methods:

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

(2) Fax: 202-493-2251.

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

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

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

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

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

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

A. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2013-0534), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to http://www.regulations.gov and insert “USCG-2013-0534” in the “Search” box. Click on "Submit a Comment" in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this notice of proposed rulemaking (NPRM) based on your comments.

B. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, insert “USCG-2013-0534” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

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

D. Public meeting

We do not now plan to hold a public meeting, but you may submit a request for one to the docket using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

II. Abbreviations

AMOU	American Maritime Officers Union
APA	American Pilots Association
CFR	Code of Federal Regulations
CPA	Certified public accountant
CPI	Consumer Price Index
E.O.	Executive Order
FR	Federal Register
GLPAC	Great Lakes Pilotage Advisory Committee
MISLE	Marine Information for Safety and Law Enforcement
MOA	Memorandum of Arrangements
NAICS	North American Industry Classification System
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
ROI	Return on investment
§	Section symbol
U.S.C.	United States Code

III. Basis and Purpose

The basis of this NPRM is the Great Lakes Pilotage Act of 1960 ("the Act") (46 U.S.C. Chapter 93), which requires U.S. vessels operating "on register"[1] and 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. 46 U.S.C. 9302(a)(1). 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." 46 U.S.C. 9303(f). Rates must be established or reviewed and adjusted each year, not later than March 1. Base rates must be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. 46 U.S.C. 9303(f). The Secretary's duties and authority under the Act have been delegated to the Coast Guard. Department of Homeland Security Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of Title 46, Code of Federal Regulations (CFR). Procedures for use in establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

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

IV. Background

[1] "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.

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,"[2] which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

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

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

[2]A "laker" is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master." 46 U.S.C. 9302(a)(1)(B).

This NPRM is a full ratemaking to establish new base pilotage rates, using the methodology found in 46 CFR part 404, Appendix A. The last full ratemaking established the current base rates in 2013 (78 FR 13521; Feb. 28, 2013). Among other things, the Appendix A methodology requires us to review detailed pilot association financial information, and we contract with independent accountants to assist in that review. We have now completed our review of the independent accountants' 2011 financial reports. The comments by the pilot associations on those reports and the independent accountants' final findings are discussed in our document entitled "Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses," which appears in the docket.

V. Discussion of Proposed Rule

A. Summary

We propose establishing new base pilotage rates in accordance with the methodology outlined in Appendix A to 46 CFR part 404. The proposed new rates would be established by March 1, 2014, and effective August 1, 2014. Our arithmetical calculations under Steps 1 through 6 of Appendix A would result in an average 10.74 percent rate decrease. This rate decrease is not the result of increased efficiencies in providing pilotage services but rather is a result of recent downward changes to American Maritime Officers Union (AMOU) contracts. Therefore, we will exercise the discretion outlined in Step 7 and increase rates by 2.5 percent to match the Canadian Great Lakes Pilotage Authority's rate adjustment. We will provide additional discussion when we explain our Step 7 adjustment of pilot rates. Table 1 shows the proposed percent change for the new rates for each area.

Secondly, we propose to adjust United States weighting factors in this NPRM to match Canadian weighting factors. At its February 2013 meeting, the Great Lakes Pilotage Advisory Committee (GLPAC) unanimously recommended (Resolution 13-01, which can be viewed at www.faca.gov[3]) that the Coast Guard align United States weighting factors with those adopted by Canada in 2008. Weighting factors are multipliers based on the size of a ship and are used in determining actual charges for pilotage service. Matching the Canadian weighting factors would provide greater parity between the United States and Canada and reduce billing confusion between the two countries, both of which are important Federal Government concerns, as emphasized by recent Executive Order (E.O.) 13609, "Promoting International Regulatory Cooperation" (77 FR 26413; May 4, 2012). These weighting factors are applied to the charges for pilotage service; they are not used in the ratemaking methodology nor are they related to the annual changes in benchmark union contracts that determine target pilot compensation. Because this adjustment would in no way be connected with the benchmark contract changes that take effect on August 1, 2014, we propose making the adjustment effective March 1, 2014, to eliminate the disparity between U.S. and Canadian pilotage systems that has existed since 2008. Based on historic traffic levels, we believe this weighting factor adjustment will increase U.S. pilot association revenues by approximately 6 to 7.5 percent.

Next, we propose to include dues paid to the American Pilots Association (APA) by the three districts as an allowable expense that is necessary and reasonable for the safe

[3]Resolution 13-01, a summary, and a transcript of the GLPAC meeting are available at this Web site.

conduct of pilotage on the Great Lakes. We are committed to a safe and efficient pilotage system on the Great Lakes and the APA, as the trade association for all pilotage groups across the United States, has worked diligently with the Coast Guard and the associations to share best practices and facilitate the development of training plans for the U.S. Great Lakes Registered Pilots. Fifteen percent of the APA dues are used for lobbying and will be excluded, because lobbying expenses are prohibited. Previously, APA dues were excluded from the ratemaking process because they were deemed unnecessary for pilot licensure. While it remains true APA membership is not needed for licensure, we now believe that the APA's commitment to safety, professional development, and the sharing of best practices warrants the inclusion of APA dues as a necessary and reasonable expense.

Finally, we propose adding a new regulation that would allow the Coast Guard to authorize temporary surcharges under the authority of 46 U.S.C. 9303(f) and in the interest of safe, efficient, and reliable pilotage. 46 U.S.C. 9303(f) allows 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." Temporary surcharges would be imposed when the surcharges serve the public interest by enabling the pilot associations to take on expenses in the interest of providing safe and reliable pilotage. Among the situations we think might warrant the imposition of a surcharge would be an association's need to acquire new capital assets or new technology, and the need to train pilots in the proper use of new assets or technology. Under our proposal, a given surcharge will not exceed 1 year in length and must be proposed for public comment prior to application. We propose using this new procedure to impose a temporary 3 percent surcharge to traffic in District One to compensate pilots for $48,995 that the District One pilots' association spent on training in 2012. Normally, this expense would not be recognized and reflected in pilotage rates until the 2015 annual ratemaking. By authorizing a surcharge now, we would accelerate the reimbursement for necessary and reasonable training expenses. This procedure will allow the associations to recover these expenses the year after they are incurred instead of waiting three years. We conducted several meetings with the pilot association presidents to discuss training and they would be more willing to participate in training if the expenses were fully recognized the following year. The surcharge would be authorized for the duration of the 2014 shipping season, which begins in March 2014. This merely accelerates the payment for these improvements, which fall within historically-approved reimbursable items. At the end of the 2014 shipping season, we will account for the monies the surcharge generate and make adjustments (debits/credits) to the operating expenses for the following year. We will also ensure that these accelerated training expenses are removed from the expenses of future rulemakings.

We encourage all Great Lakes pilots to renew training on a 5-10 year basis that includes these topics, which are essential for providing safe, efficient, and reliable pilotage service:

- Radar observer certification;
- Bridge resource management;
- Requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended;
- Legal aspects of pilotage;

- Fatigue training as recommended by the National Transportation Safety Board; and
- Basic and emergency ship handling simulator/manned models training.

The Coast Guard is pleased that District One pilots sought portions of this training. We encourage District Two and District Three pilots to seek similar training, which we are willing to review for inclusion in the rate on a case-by-case basis.

All figures in the tables that follow are based on calculations performed either by an independent accountant or by the Director's[4] staff. In both cases, those calculations were performed using common commercial computer programs. Decimalization and rounding of the audited and calculated data affects the display in these tables but does not affect the calculations. The calculations are based on the actual figure that rounds values for presentation in the tables.

Table 1: Summary of rate adjustments based on Step 7 discretion

If pilotage service is required in:	Then the percent change over the current rate is:
Area 1 (Designated waters)	2.50%
Area 2 (Undesignated waters)	2.50%
Area 4 (Undesignated waters)	2.50%
Area 5 (Designated waters)	2.50%
Area 6 (Undesignated waters)	2.50%
Area 7 (Designated waters)	2.50%
Area 8 (Undesignated waters)	2.50%

B. Discussion of Methodology

The Appendix A methodology provides seven steps, with sub-steps, for calculating rate adjustments. The following discussion describes those steps and sub-steps, and includes tables showing how we have applied them to the 2011 financial

[4] "Director" is the Coast Guard Director, Great Lakes Pilotage, which is used throughout this NPRM.

information supplied by the pilots association.

Step 1: Projection of Operating Expenses. In this step, we project the amount of vessel traffic annually. Based on that projection, we forecast the amount of necessary and reasonable operating expenses that pilotage rates should recover.

Step 1.A: Submission of Financial Information. This sub-step requires each pilot association to provide us with detailed financial information in accordance with 46 CFR part 403. The associations complied with this requirement, supplying 2011 financial information in 2012. This is the most current and complete data set we have available.

Step 1.B: Determination of Recognizable Expenses. This sub-step requires us to determine which reported association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition or disallowed for ratemaking purposes. The accountant's preliminary findings were sent to the pilot associations, they reviewed and commented on those findings, and the accountant then finalized the findings. The Director reviewed and accepted the final findings, resulting in the determination of recognizable expenses. The preliminary findings, the associations' comments on those findings, and the final findings are all discussed in the "Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses," which appears in the docket. Tables 2 through 4 show each association's recognized expenses.

Table 2: Recognized expenses for District One

	Area 1	Area 2	Total
Reported Expenses for 2011	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$234,724	$156,246	$390,970
License insurance	$0	$0	$0
Payroll taxes	$61,483	$47,611	$109,094
Other	$837	$588	$1,425
Total Other Pilotage Costs	$297,044	$204,445	$501,489
Pilot Boat and Dispatch Costs:			
Pilot boat expense	$111,772	$76,904	$188,676
Dispatch expense	$0	$0	$0
Payroll taxes	$8,611	$5,925	$14,536
Total Pilot and Dispatch Costs	$120,383	$82,829	$203,212
Administrative Expenses:			
Legal	$10,592	$6,922	$17,514
Insurance	$23,780	$16,492	$40,272
Employee benefits	$21,282	$14,645	$35,927
Payroll taxes	$5,032	$3,463	$8,495
Other taxes	$5,042	$3,470	$8,512
Travel	$756	$520	$1,276
Depreciation/Auto leasing/Other	$38,252	$26,319	$64,571
Interest	$18,484	$12,718	$31,202
Dues and subscriptions	$9,180	$9,180	$18,360
Utilities	$4,314	$2,941	$7,255
Salaries	$50,718	$34,897	$85,615
Accounting/Professional fees	$5,752	$3,428	$9,180
Pilot Training	$4,200	$2,277	$6,477
Other	$9,959	$6,880	$16,839
Total Administrative Expenses	$207,343	$144,152	$351,495
Total Operating Expenses	$624,770	$431,426	$1,056,196
Proposed Adjustments (Independent certified public accountant (CPA):			
Operating Expenses:			
Other Pilot Costs:			

Pilotage subsistence/Travel	($2,492)	($1,714)	($4,206)
Payroll taxes	$12,883	$8,864	$21,747
Total Other Pilotage Costs	$10,391	$7,150	$17,541
TOTAL CPA ADJUSTMENTS	$10,391	$7,150	$17,541
Total Operating Expenses	$635,161	$438,576	$1,073,737

Note: Numbers may not total due to rounding.

Table 3: Recognized expenses for District Two

	Area 4	Area 5	Total
Reported Expenses for 2011	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$79,250	$118,874	$198,124
License insurance	$6,168	$9,252	$15,420
Payroll taxes	$36,676	$55,013	$91,689
Other	$23,560	$35,341	$58,901
Total Other Pilotage Costs	$145,654	$218,480	$364,134
Pilot Boat and Dispatch Costs:			
Pilot boat expense	$104,955	$157,432	$262,387
Dispatch expense	$6,060	$9,090	$15,150
Employee Benefits	$40,419	$60,628	$101,047
Payroll taxes	$7,135	$10,703	$17,838
Total Pilot and Dispatch Costs	$158,569	$237,853	$396,422
Administrative Expenses:			
Legal	$37,520	$56,281	$93,801
Office rent	$26,275	$39,413	$65,688
Insurance	$10,672	$16,009	$26,681
Employee benefits	$16,365	$24,548	$40,913
Payroll taxes	$4,446	$6,668	$11,114
Other taxes	$14,273	$21,409	$35,682
Depreciation/Auto leasing/Other	$15,604	$23,407	$39,011
Interest	$2,772	$4,159	$6,931
Dues and subscriptions	$7,069	$10,603	$17,672
Utilities	$15,410	$23,115	$38,525
Salaries	$39,874	$59,810	$99,684
Accounting/Professional fees	$12,110	$18,164	$30,274

Pilot Training	$0	$0	$0
Other	$8,860	$13,291	$22,151
Total Administrative Expenses	$211,250	$316,877	$528,127
Total Operating Expenses	$515,473	$773,210	$1,288,683
Proposed Adjustments (Independent CPA)			
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	($2,598)	($3,896)	($6,494)
Other	($566)	($850)	($1,416)
Total Other Pilotage Costs	($3,164)	($4,746)	($7,910)
Pilot Boat and Dispatch Costs:			
Employee benefits	($100)	($150)	($249)
Total Pilot Boat and Dispatch Costs	($100)	($150)	($249)
Administrative Expenses:			
Employee benefits	($25)	($38)	($63)
Total Administrative Expenses	($25)	($38)	($63)
TOTAL CPA ADJUSTMENTS	($3,289)	($4,933)	($8,222)
Total Operating Expenses	$512,184	$768,277	$1,280,461

Note: Numbers may not total due to rounding.

Table 4: Recognized expenses for District Three

	Area 6	Area 7	Area 8	Total
Reported Expenses for 2011	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Operating Expenses:				
Other Pilotage Costs:				
Pilot subsistence/Travel	$196,529	$72,789	$94,625	$363,943
License insurance	$10,157	$3,762	$4,891	$18,810
Payroll taxes	$63,803	$23,631	$30,720	$118,153
Other	$2,184	$809	$1,052	$4,045
Total Other Pilotage Costs	$272,673	$100,991	$131,288	$504,951
Pilot Boat and Dispatch Costs:				
Pilot boat expense	$243,077	$90,028	$117,037	$450,142
Dispatch expense	$87,059	$32,244	$41,917	$161,221
Payroll taxes	$9,607	$3,558	$4,626	$17,791
Total Pilot Boat and Dispatch Costs	$339,743	$125,830	$163,580	$629,154
Administrative Expenses:				
Legal	$12,138	$4,495	$5,844	$22,477
Office rent	$5,346	$1,980	$2,574	$9,900
Insurance	$7,451	$2,760	$3,587	$13,798
Employee benefits	$73,230	$27,122	$35,259	$135,611
Payroll taxes	$6,154	$2,279	$2,963	$11,396
Other taxes	$19,339	$7,163	$9,311	$35,813

Depreciation/Auto leasing	$34,341	$12,719	$16,534	$63,594
Interest	$2,682	$993	$1,291	$4,966
Dues and subscriptions	$11,016	$5,508	$7,344	$23,868
Utilities	$19,723	$7,305	$9,496	$36,524
Salaries	$55,772	$20,656	$26,853	$103,281
Accounting/Professional fees	$13,419	$4,970	$6,461	$24,850
Pilot Training	$516	$191	$248	$955
Other	$5,394	$1,998	$2,597	$9,989
Total Administrative Expenses	$266,521	$100,139	$130,362	$497,022
Total Operating Expenses	$878,937	$326,960	$425,230	$1,631,127
Proposed Adjustments (Independent CPA):				
Operating Expenses:				
Other Pilotage Costs:				
Payroll taxes	$22,446	$8,313	$10,807	$41,566
Total Other Pilotage Costs	$22,446	$8,313	$10,807	$41,566
Administrative Expenses:				
Other Taxes	($1,613)	($598)	($777)	($2,988)
Depreciation/Auto leasing	($7,707)	($2,854)	($3,711)	($14,272)
Other	($610)	($226)	($294)	($1,130)
Total Administrative Expenses	($9,930)	($3,678)	($4,782)	($18,390)
TOTAL CPA ADJUSTMENTS	$12,516	$4,635	$6,025	$23,176
Total Operating Expenses	$891,453	$331,595	$431,255	$1,654,303

Note: Numbers may not total due to rounding.

Step 1.C: Adjustment for Inflation or Deflation. In this sub-step, we project rates of inflation or deflation for the succeeding navigation season. Because we used 2011 financial information, the "succeeding navigation season" for this ratemaking is 2012. We based our inflation adjustment of 2 percent on the 2012 change in the Consumer Price Index (CPI) for the Midwest Region of the United States, which can be found at: http://www.bls.gov/xg_shells/ro5xg01.htm. This adjustment appears in Tables 5 through 7.

Table 5: Inflation adjustment, District One

		Area 1		Area 2		Total
Reported Expenses for 2011		St. Lawrence River		Lake Ontario		
Total Operating Expenses:		$635,161		$438,576		$1,073,737
2012 change in the CPI for the Midwest Region of the United States	x	.02	x	.02	x	.02
Inflation Adjustment	=	$12,703	=	$8,772	=	$21,475

Table 6: Inflation adjustment, District Two

		Area 4		Area 5		Total
Reported Expenses for 2011		Lake Erie		Southeast Shoal to Port Huron, MI		
Total Operating Expenses:		$512,184		$768,277		$1,280,461
2012 change in the CPI for the Midwest Region of the United States	x	.02	x	.02	x	.02
Inflation Adjustment	=	$10,244	=	$15,366	=	$25,609

Table 7: Inflation adjustment, District Three

		Area 6		Area 7		Area 8		Total
Reported Expenses for 2011		Lakes Huron and Michigan		St. Mary's River		Lake Superior		
Total Operating Expenses:		$891,453		$331,595		$431,255		$1,654,303
2012 change in the CPI for the Midwest Region of the United States	x	.02	x	.02	x	.02	x	.02
Inflation Adjustment	=	$17,829	=	$6,632	=	$8,625	=	$33,086

Step 1.D: Projection of Operating Expenses. In this final sub-step of Step 1, we project the operating expenses for each pilotage area on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection. We are not aware of any such foreseeable circumstances that now exist in District One.

For District One, the projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 8 shows these projections.

Table 8: Projected operating expenses, District One

		Area 1		Area 2		Total
Reported Expenses for 2011		St. Lawrence River		Lake Ontario		
Total operating expenses		$635,161		$438,576		$1,073,737
Inflation adjustment 2.0%	+	$12,703	+	$8,772	+	$21,475
Total projected expenses for 2014 pilotage season	=	$647,864	=	$447,348	=	$1,095,212

Note: Numbers may not total due to rounding.

In District Two, Federal taxes of $12,000 are accounted for in Step 6 (Federal Tax Allowance). The projected operating expenses are based on the calculations from Steps 1.A through 1.C and Federal taxes. Table 9 shows these projections.

Table 9: Projected operating expenses, District Two

		Area 4		Area 5		Total
Reported Expenses for 2011		Lake Erie		Southeast Shoal to Port Huron, MI		
Total Operating Expenses		$512,184		$768,277		$1,280,461
Inflation adjustment 2.0%	+	$10,244	+	$15,366	+	$25,609
Director's adjustment & foreseeable circumstances						
Federal taxes (accounted for in Step 6)	+	($4,800)	+	($7,200)	+	($12,000)
Total projected expenses for 2014 pilotage season	=	$517,627	=	$776,442	=	$1,294,070

Currently, we are not aware of any foreseeable circumstances for District Three. Its projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 10 shows these projections.

Table 10: Projected operating expenses, District Three

		Area 6		Area 7		Area 8		Total
Reported Expenses for 2011		Lakes Huron and Michigan		St. Mary's River		Lake Superior		
Total Expenses		$891,453		$331,595		$431,255		$1,654,303
Inflation adjustment 2.0%	+	$17,829	+	$6,632	+	$8,625	+	$33,086
Total projected expenses for 2014 pilotage season	=	$909,282	=	$338,227	=	$439,880	=	$1,687,389

Step 2: Projection of Target Pilot Compensation. In Step 2, we project the annual amount of target pilot compensation that pilotage rates should provide in each area.

These projections are based on our latest information on the conditions that will prevail in 2014.

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

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

Agreements A and B both expire on July 31, 2016. The AMOU has set the daily aggregate rate—including the daily wage rate, vacation pay, pension plan contributions, and medical plan contributions effective August 1, 2014 as follows: 1) In undesignated waters, $612.20 for Agreement A and $604.64 for Agreement B; and 2) In designated waters, $842.63 for Agreement A and $829.40 for Agreement B.

Because we are interested in annual compensation, we must convert these daily rates. We use a 270-day multiplier which reflects an average 30-day month, over the 9 months of the average shipping season. Table 11 shows our calculations using the 270-day multiplier.

Table 11: Projected annual aggregate rate components

Aggregate Rate – Wages and Vacation, Pension, and Medical Benefits	
Pilots on undesignated waters	
Agreement A:	
$612.20 daily rate x 270 days	$165,294.00
Agreement B:	
$604.64 daily rate x 270 days	$163,252.80
Pilots on designated waters	
Agreement A:	
$842.63 daily rate x 270 days	$227,510.10
Agreement B:	
$829.40 daily rate x 270 days	$223,938.00

We apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., representing approximately 30 percent of tonnage, and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc., representing approximately 70 percent of tonnage. Table 12 provides details.

Table 12: Shipping tonnage apportioned by contract

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

We use the percentages from Table 12 to apportion the projected compensation from Table 11. This gives us a single tonnage-weighted set of figures. Table 13 shows our calculations.

Table 13: Tonnage-weighted wage and benefit components

		Undesignated waters		Designated waters
Agreement A:				
Total wages and benefits		$165,294.00		$227,510.10
Percent tonnage	x	29.7238%	x	29.7238%
Total	=	$49,132	=	$67,625
Agreement B:				
Total wages and benefits		$163,252.80		$223,938.00
Percent tonnage	x	70.2762%	x	70.2762%
Total	=	$114,728	=	$157,375
Projected Target Rate of Compensation:				
Agreement A total weighted average wages and benefits		$49,132		$67,625
Agreement B total weighted average wages and benefits	+	$114,728	+	$157,375
Total	=	$163,860	=	$225,000

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

"Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service." (46 CFR part 404, Appendix A, Step 2.B(1)). For that reason, and as we explained most recently in the 2011 ratemaking's final rule (76 FR 6351 at 6352 col. 3 (Feb. 4, 2011)), we do not include, and never have included, pilot delay, detention, or cancellation in calculating bridge hours. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. We use historical data, input from the pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services for the coming year.

In our 2013 final rule, we determined that 38 pilots would be needed for ratemaking purposes. We have determined that District 3 has two excess billets that remain unfilled and that current and projected traffic levels do not support the retention of these unfilled billets. For 2014, we project 36 pilots is the proper number to use for ratemaking purposes. We are removing one pilot from each of the undesignated waters of District Three (one each from Area 6 and Area 8). The total pilot authorization strength includes five pilots in Area 2, where rounding up alone would result in only four pilots. For the same reasons we explained at length in the 2008 ratemaking final rule (74 FR 220 at 221-22 (Jan. 5, 2009)) we have determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 14 shows the bridge hours we project will be needed for each area and our calculations to determine the number of whole pilots needed for ratemaking purposes.

Table 14: Number of pilots needed

Pilotage area	Projected 2014 bridge hours		Divided by 1,000 (designated waters) or 1,800 (undesignated waters)		Calculated value of pilot demand	Pilots needed (total = 36)
Area 1 (Designated waters)	5,116	÷	1,000	=	5.116	6
Area 2 (Undesignated waters)	5,429	÷	1,800	=	3.016	5
Area 4 (Undesignated waters)	5,814	÷	1,800	=	3.230	4
Area 5 (Designated waters)	5,052	÷	1,000	=	5.052	6
Area 6 (Undesignated	9,611	÷	1,800	=	5.339	6

waters)						
Area 7 (Designated waters)	3,023	÷	1,000	=	3.023	4
Area 8 (Undesignated waters)	7,540	÷	1,800	=	4.189	5

Step 2.C: Projection of Target Pilot Compensation. In Table 15, we project total target pilot compensation separately for each area by multiplying the number of pilots needed in each area, as shown in Table 14, by the target pilot compensation shown in Table 13.

Table 15: Projection of target pilot compensation by area

Pilotage area	Pilots needed (total= 36)		Target rate of pilot compensation		Projected target pilot compensation
Area 1 (Designated waters)	6	x	$225,000	=	$1,349,999
Area 2 (Undesignated waters)	5	x	$163,860	=	$819,298
Area 4 (Undesignated waters)	4	x	$163,860	=	$655,438
Area 5 (Designated waters)	6	x	$225,000	=	$1,349,999
Area 6 (Undesignated waters)	6	x	$163,860	=	$983,157
Area 7 (Designated waters)	4	x	$225,000	=	$899,999
Area 8 (Undesignated waters)	5	x	$163,860	=	$819,298

Note: Numbers may not total due to rounding.

Steps 3 and 3.A: Projection of Revenue. In Steps 3 and 3.A., we project the revenue that would be received in 2014 if demand for pilotage services matches the bridge hours we projected in Table 14, and if 2012 pilotage rates are left unchanged. Table 16 shows this calculation.

Table 16: Projection of revenue by area

Pilotage area	Projected 2014 bridge hours		2013 Pilotage Rates		Revenue projection for 2013
Area 1 (Designated waters)	5,116	x	$460.97	=	$2,358,327
Area 2 (Undesignated waters)	5,429	x	$284.84	=	$1,546,373
Area 4 (Undesignated waters)	5,814	x	$205.27	=	$1,193,426
Area 5 (Designated waters)	5,052	x	$508.91	=	$2,571,038
Area 6 (Undesignated waters)	9,611	x	$199.95	=	$1,921,756
Area 7 (Designated waters)	3,023	x	$482.94	=	$1,459,929
Area 8 (Undesignated waters)	7,540	x	$186.67	=	$1,407,490
Total					$12,458,339

Note: Numbers may not total due to rounding.

Step 4: Calculation of Investment Base. In this step, we calculate each association's investment base, which is the recognized capital investment in the assets employed by the association required to support pilotage operations. This step uses a formula set out in 46 CFR part 404, Appendix B. The first part of the formula identifies each association's total sources of funds. Tables 17 through 19 follow the formula up to that point.

Table 17: Total sources of funds, District One

		Area 1		Area 2
Recognized Assets:				
Total Current Assets		$669,895		$460,921
Total Current Liabilities	-	$54,169	-	$37,271
Current Notes Payable	+	$24,746	+	$17,026
Total Property and Equipment (NET)	+	$369,024	+	$253,907
Land	-	$13,054	-	$8,981
Total Other Assets	+	$0	+	$0
Total Recognized Assets:	=	$996,442	=	$685,602
Non-Recognized Assets				
Total Investments and Special Funds	+	$6,243	+	$4,295
Total Non-Recognized Assets:	=	$6,243	=	$4,295
Total Assets				

Total Recognized Assets		$996,442		$685,602
Total Non-Recognized Assets	+	$6,243	+	$4,295
Total Assets:	=	$1,002,685	=	$689,897
Recognized Sources of Funds				
Total Stockholder Equity		$647,677		$445,633
Long-Term Debt	+	$318,571	+	$219,193
Current Notes Payable	+	$24,746	+	$17,026
Advances from Affiliated Companies	+	$0	+	$0
Long-Term Obligations — Capital Leases	+	$0	+	$0
Total Recognized Sources:	=	$990,994	=	$681,852
Non-Recognized Sources of Funds				
Pension Liability		$0		$0
Other Non-Current Liabilities	+	$0	+	$0
Deferred Federal Income Taxes	+	$0	+	$0
Other Deferred Credits	+	$0	+	$0
Total Non-Recognized Sources:	=	$0	=	$0
Total Sources of Funds				
Total Recognized Sources		$990,994		$681,852
Total Non-Recognized Sources	+	$0	+	$0
Total Sources of Funds:	=	$990,994	=	$681,852

Table 18: Total sources of funds, District Two

		Area 4		Area 5
Recognized Assets:				
Total Current Assets		$454,465		$681,697
Total Current Liabilities	-	$409,366	-	$614,048
Current Notes Payable	+	$25,822	+	$38,734
Total Property and Equipment (NET)	+	$420,422	+	$630,632
Land	-	$0	-	$0
Total Other Assets	+	$60,195	+	$90,293
Total Recognized Assets	=	$551,538	=	$827,308
Non-Recognized Assets:				
Total Investments and Special Funds	+	$0	+	$0
Total Non-Recognized Assets	=	$0	=	$0
Total Assets:				
Total Recognized Assets		$551,538		$827,308
Total Non-Recognized Assets	+	$0	+	$0
Total Assets	=	$551,538	=	$827,308

Recognized Sources of Funds:				
Total Stockholder Equity		$89,537		$134,305
Long-Term Debt	+	$410,357	+	$615,535
Current Notes Payable	+	$25,822	+	$38,734
Advances from Affiliated Companies	+	$0	+	$0
Long-Term Obligations – Capital Leases	+	$0	+	$0
Total Recognized Sources	=	$525,716	=	$788,574
Non-Recognized Sources of Funds:				
Pension Liability		$0		$0
Other Non-Current Liabilities	+	$0	+	$0
Deferred Federal Income Taxes	+	$0	+	$0
Other Deferred Credits	+	$0	+	$0
Total Non-Recognized Sources	=	$0	=	$0
Total Sources of Funds:				
Total Recognized Sources		$525,716		$788,574
Total Non-Recognized Sources	+	$0	+	$0
Total Sources of Funds	=	$525,716	=	$788,574

Table 19: Total sources of funds, District Three

		Area 6		Area 7		Area 8
Recognized Assets:						
Total Current Assets		$658,934		$244,050		$317,265
Total Current Liabilities	-	$64,869	-	$24,025	-	$31,233
Current Notes Payable	+	$3,869	+	$1,433	+	$1,863
Total Property and Equipment (NET)	+	$21,905	+	$8,113	+	$10,547
Land	-	$0	-	$0	-	$0
Total Other Assets	+	$540	+	$200	+	$260
Total Recognized Assets	=	$620,379	=	$229,771	=	$298,702
Non-Recognized Assets:						
Total Investments and Special Funds	+	$0	+	$0	+	$0
Total Non-Recognized Assets	=	$0	=	$0	=	$0
Total Assets:						
Total Recognized Assets		$620,379		$229,771		$298,702
Total Non-Recognized Assets	+	$0	+	$0	+	$0
Total Assets	=	$620,379	=	$229,771	=	$298,702
Recognized Sources of Funds:						
Total Stockholder Equity		$606,164		$224,505		$291,857
Long-Term Debt	+	$6,478	+	$2,399	+	$3,119
Current Notes Payable	+	$3,869	+	$1,433	+	$1,863

Advances from Affiliated Companies	+	$0	+	$0	+	$0
Long-Term Obligations – Capital Leases	+	$0	+	$0	+	$0
Total Recognized Sources	=	$616,511	=	$228,337	=	$296,839
Non-Recognized Sources of Funds:						
Pension Liability		$0		$0		$0
Other Non-Current Liabilities	+	$0	+	$0	+	$0
Deferred Federal Income Taxes	+	$0	+	$0	+	$0
Other Deferred Credits	+	$0	+	$0	+	$0
Total Non-Recognized Sources	=	$0	=	$0	=	$0
Total Sources of Funds:						
Total Recognized Sources		$616,511		$228,337		$296,839
Total Non-Recognized Sources	+	$0	+	$0	+	$0
Total Sources of Funds	=	$616,511	=	$228,337	=	$296,839

Tables 17 through 19 also relate to the second part of the formula for calculating the investment base. The second part establishes a ratio between recognized sources of funds and total sources of funds. Since no non-recognized sources of funds (sources we do not recognize as required to support pilotage operations) exist for any of the pilot associations for this year's rulemaking, the ratio between recognized sources of funds and total sources of funds is 1:1 (or a multiplier of 1) in all cases. Table 20 applies the multiplier of 1 and shows that the investment base for each association equals its total recognized assets. Table 20 also expresses these results by area, because area results will be needed in subsequent steps.

Table 20: Investment base by area and district

District	Area	Total recognized assets ($)	Recognized sources of funds ($)	Total sources of funds ($)	Multiplier (ratio of recognized to total sources)	Investment base ($)[1]
One	1	996,442	990,994	990,994	1	996,442
	2	685,602	681,852	681,852	1	685,602
					TOTAL	1,682,044

Two[2]	4	551,538	525,716	525,716	1	551,538
	5	827,308	788,574	788,574	1	827,308
					TOTAL	1,378,846
Three	6	620,379	616,511	616,511	1	620,379
	7	229,771	228,337	228,337	1	229,771
	8	298,702	296,839	296,839	1	298,702
					TOTAL	1,148,852

[1]"Investment base" = "Total recognized assets" X "Multiplier (ratio of recognized to total sources)".
[2]The pilot associations that provide pilotage services in Districts One and Three operate as partnerships. The pilot association that provides pilotage service for District Two operates as a corporation.

Step 5: Determination of Target Rate of Return. We determine a market-equivalent return on investment (ROI) that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the preceding year's average annual rate of return for new issues of high-grade corporate securities. For 2012, the preceding year, the allowed ROI was 3.67 percent, based on the average rate of return for that year on Moody's AAA corporate bonds, which can be found at: http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.

Step 6: Adjustment Determination. The first part of the adjustment determination requires an initial calculation, applying a formula described in Appendix A. The formula uses the results from Steps 1, 2, 3, and 4 to project the ROI that can be expected in each area if no further adjustments are made. This calculation is shown in Tables 21 through 23.

Table 21: Projected ROI, areas in District One

		Area 1		Area 2
Revenue (from Step 3)		$2,358,327		$1,546,373
Operating Expenses (from Step 1)	-	$647,864	-	$447,348
Pilot Compensation (from Step 2)	-	$1,349,999	-	$819,298
Operating Profit/(Loss)	=	$360,464	=	$279,728

Interest Expense (from audits)	-	$18,484	-	$12,718
Earnings Before Tax	=	$341,980	=	$267,010
Federal Tax Allowance	-	$0	-	$0
Net Income	=	$341,980	=	$267,010
Return Element (Net Income + Interest)		$360,464		$279,728
Investment Base (from Step 4)	÷	$996,442	÷	$685,602
Projected Return on Investment	=	0.3618	=	0.4080

Table 22: Projected ROI, areas in District Two

		Area 4		Area 5
Revenue (from Step 3)		$1,193,426		$2,571,038
Operating Expenses (from Step 1)	-	$517,627	-	$776,442
Pilot Compensation (from Step 2)	-	$655,438	-	$1,349,999
Operating Profit/(Loss)	=	$20,361	=	$444,597
Interest Expense (from audits)	-	$2,772	-	$4,159
Earnings Before Tax	=	$17,589	=	$440,438
Federal Tax Allowance	-	$4,800	-	$7,200
Net Income	=	$12,789	=	$433,238
Return Element (Net Income + Interest)		$15,561		$437,397
Investment Base (from Step 4)	÷	$551,538	÷	$827,308
Projected Return on Investment	=	0.0282	=	0.5287

Table 23: Projected ROI, areas in District Three

		Area 6		Area 7		Area 8
Revenue (from Step 3)		$1,921,756		$1,459,929		$1,407,490
Operating Expenses (from Step 1)	-	$909,282	-	$338,227	-	$439,880
Pilot Compensation (from Step 2)	-	$983,157	-	$899,999	-	$819,298
Operating Profit/(Loss)	=	$29,317	=	$221,703	=	$148,312
Interest Expense (from audits)	-	$2,682	-	$993	-	$1,291
Earnings Before Tax	=	$26,635	=	$220,710	=	$147,021
Federal Tax Allowance	-	$0	-	$0	-	$0
Net Income	=	$26,635	=	$220,710	=	$147,021
Return Element (Net Income + Interest)		$29,317		$221,703		$148,312
Investment Base (from Step 4)	÷	620,379	÷	$229,771	÷	$298,702
Projected Return on Investment	=	0.0473	=	0.9649	=	0.4965

The second part required for Step 6 compares the results of Tables 21 through 23 with the target ROI (3.67 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is necessary. Table 24 shows this comparison for each area.

Table 24: Comparison of projected ROI and target ROI, by Area[1]

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast Shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected return on investment	0.3618	0.4080	0.0282	0.5287	0.0473	0.9649	0.4965
Target return on investment	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367
Difference in return on investment	0.3251	0.3713	(0.0085)	0.4920	0.0106	0.9282	0.4598

[1]NOTE: Decimalization and rounding of the target ROI affects the display in this table but does not affect our calculations, which are based on the actual figure.

Because Table 24 shows a significant difference between the projected and target ROIs, an adjustment to the base pilotage rates is necessary. Step 6 now requires us to determine the pilotage revenues that are needed to make the target return on investment equal to the projected return on investment. This calculation is shown in Table 25. It adjusts the investment base we used in Step 4, multiplying it by the target ROI from Step 5, and applies the result to the operating expenses and target pilot compensation determined in Steps 1 and 2.

Table 25: Revenue needed to recover target ROI, by area

Pilotage area	Operating Expenses (Step 1)		Target Pilot Compensation (Step 2)		Investment Base (Step 4) x 3.67% (Target ROI Step 5)		Federal Tax Allowance		Revenue Needed
Area 1 (Designated waters)	$647,864	+	$1,349,999	+	$36,569	+	$0	=	$2,034,432
Area 2 (Undesignated waters)	$447,348	+	$819,298	+	$25,162	+	$0	=	$1,291,807
Area 4 (Undesignated waters)	$517,627	+	$655,438	+	$20,241	+	$4,800	=	$1,198,107
Area 5 (Designated waters)	$776,442	+	$1,349,999	+	$30,362	+	$7,200	=	$2,164,003
Area 6 (Undesignated waters)	$909,282	+	$983,157	+	$22,768	+	$0	=	$1,915,207
Area 7 (Designated waters)	$338,227	+	$899,999	+	$8,433	+	$0	=	$1,246,659
Area 8 (Undesignated waters)	$439,880	+	$819,298	+	$10,962	+	$0	=	$1,270,140
Total	$4,076,671	+	$6,877,187	+	$154,498	+	$12,000	=	$11,120,355

The “Revenue Needed” column of Table 25 is more than the revenue we projected in Table 16. For purposes of transparency, we verify the calculations in Table 25 by rerunning the formula in the first part of Step 6, using the revenue needed from Table 25 instead of the Table 16 revenue projections we used in Tables 21 through 23. Tables 26 through 28 show that attaining the Table 25 revenue needed is sufficient to recover target ROI.

Table 26: Balancing revenue needed and target ROI, District One

		Area 1		Area 2
Revenue Needed		$2,034,432		$1,291,807
Operating Expenses (from Step 1)	-	$647,864	-	$447,348
Pilot Compensation (from Step 2)	-	$1,349,999	-	$819,298
Operating Profit/(Loss)	=	$36,569	=	$25,162
Interest Expense (from audits)	-	$18,484	-	$12,718
Earnings Before Tax	=	$18,085	=	$12,444
Federal Tax Allowance	-	$0	-	$0
Net Income	=	$18,085	=	$12,444
Return Element (Net Income + Interest)		$36,569		$25,162
Investment Base (from Step 4)	÷	$996,442	÷	$685,602
Return on Investment	=	0.0367	=	0.0367

Table 27: Balancing revenue needed and target ROI, District Two

		Area 4		Area 5
Revenue Needed	+	$1,198,107	+	$2,164,003
Operating Expenses (from Step 1)	-	$517,627	-	$776,442
Pilot Compensation (from Step 2)	-	$655,438	-	$1,349,999
Operating Profit/(Loss)	=	$25,041	=	$37,562
Interest Expense (from audits)	-	$2,772	-	$4,159
Earnings Before Tax	=	$22,269	=	$33,403
Federal Tax Allowance	-	$4,800	-	$7,200
Net Income	=	$17,469	=	$26,203
Return Element (Net Income + Interest)		$20,241		$30,362
Investment Base (from Step 4)	÷	$551,538	÷	$827,308
Return on Investment	=	0.0367	=	0.0367

Table 28: Balancing revenue needed and target ROI, District Three

		Area 6		Area 7		Area 8
Revenue Needed	+	$1,915,207	+	$1,246,659	+	$1,270,140
Operating Expenses (from Step 1)	-	$909,282	-	$338,227	-	$439,880
Pilot Compensation (from Step 2)	-	$983,157	-	$899,999	-	$819,298
Operating Profit/(Loss)	=	$22,768	=	$8,433	=	$10,962
Interest Expense (from audits)	-	$2,682	-	$993	-	$1,291
Earnings Before Tax	=	$20,086	=	$7,440	=	$9,671
Federal Tax Allowance	-	$0	-	$0	-	$0
Net Income	=	$20,086	=	$7,440	=	$9,671
Return Element (Net Income + Interest)		$22,768		$8,433		$10,962
Investment Base (from Step 4)	÷	$620,379	÷	$229,771	÷	$298,702
Return on Investment	=	0.0367	=	0.0367	=	0.0367

Step 7: Adjustment of Pilotage Rates. Finally, and subject to negotiation with Canada or adjustment for other supportable circumstances, we calculate rate adjustments by dividing the Step 6 revenue needed (Table 25) by the Step 3 revenue projection (Table 16), to give us a rate multiplier for each area. Tables 29 through 31 show these calculations.

Table 29: Rate multiplier, areas in District One

Ratemaking Projections		Area 1		Area 2
		St. Lawrence River		Lake Ontario
Revenue Needed (from Step 6)		$2,034,432		$1,291,807
Revenue (from Step 3)	÷	$2,358,327	÷	$1,546,373
Rate Multiplier	=	0.8627	=	0.8354

Table 30: Rate multiplier, areas in District Two

Ratemaking Projections		Area 4		Area 5
		Lake Erie		Southeast Shoal to Port Huron, MI
Revenue Needed (from Step 6)		$1,198,107		$2,164,003
Revenue (from Step 3)	÷	$1,193,426	÷	$2,571,038
Rate Multiplier	=	1.0039	=	0.8417

Table 31: Rate multiplier, areas in District Three

Ratemaking Projections		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior
Revenue Needed (from Step 6)		$1,915,207		$1,246,659		$1,270,140
Revenue (from Step 3)	÷	$1,921,756	÷	$1,459,929	÷	$1,407,490
Rate Multiplier	=	0.9966	=	0.8539	=	0.9024

We calculate a rate multiplier for adjusting the basic rates and charges described in 46 CFR 401.420 and 401.428, and it is applicable in all areas. We divide total revenue needed (Step 6, Table 25) by total projected revenue (Steps 3 and 3.A, Table 16). Table 32 shows this calculation.

Table 32: Rate multiplier for basic rates and charges in 46 CFR 401.420 and 401.428

Ratemaking Projections		
Total Revenue Needed (from Step 6)		$ 11,120,355
Total revenue (from Step 3)	÷	$ 12,458,339
Rate Multiplier	=	0.8926

This table shows that rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420) and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428), would decrease by 10.74 percent in all areas.

Without further action, the existing rates we established in our 2013 final rule would then be multiplied by the rate multipliers from Tables 29 through 31 to calculate the area by area rate changes for 2014. The resulting 2014 rates, on average, would then be decreased approximately 11 percent from the 2013 rates. This decrease is not due to increased efficiencies in pilotage services but rather a result of recent significant downward adjustments to AMOU contracts. We declined to impose this decrease because financial data from one of the associations indicates that such a rate decrease would make it difficult for it to continue funding operations and may even cause it to fold. Further, the decrease would have an adverse effect on providing safe, efficient, and reliable pilotage in the other two pilotage districts as well. Finally, our Memorandum of Arrangements (MOA) with Canada calls for comparable pilotage rates between the two countries and we have proposed matching our rates to the Canadian rate, which has actually increased by 2.5 percent this year. Our discretionary authority under Step 7 must be "based on requirements of the Memorandum of Arrangements between the United States and Canada, and other supportable circumstances that may be appropriate." The MOA call for comparable United States and Canadian rates, and the rates would not be comparable if United States rates for 2014 decrease by approximately 11 percent, while Canadian rates for 2014 increase by 2.5 percent. "Other supportable circumstances" we have for exercising our discretion include recent E.O. 13609, "Promoting International Regulatory Cooperation," which calls on Federal agencies to eliminate "unnecessary differences" between U.S. and foreign regulations (77 FR 26413; May 4, 2012; sec. 1), and the risk that a substantial rate decrease would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage service.

Therefore, we propose relying on the discretionary authority we have under Step 7 to further adjust rates so that they match those adopted by the Canadian Great Lakes Pilotage Authority for 2014. Table 33 compares the impact, area by area, that an average decrease of 11 percent would have, relative to the impact each area would experience if United States rates match those of the Canadian GLPA.

A Coast Guard contractor is currently preparing a comprehensive study of our Great Lakes Pilotage ratemaking methodology, which is scheduled to be completed later in 2013. The study will address possible alternatives to the use of AMOU contracts as benchmarks for pilot compensation. We welcome any recommendations from GLPAC or the public on that issue.

Table 33: Impact of exercising Step 7 discretion

Area	Percent change in rate without exercising Step 7 discretion	Percent change in rate with exercise of Step 7 discretion
Area 1 (Designated waters)	-13.73%	2.50%
Area 2 (Undesignated waters)	-16.46%	2.50%
Area 4 (Undesignated waters)	0.39%	2.50%
Area 5 (Designated waters)	-15.83%	2.50%
Area 6 (Undesignated waters)	-0.34%	2.50%
Area 7 (Designated waters)	-14.61%	2.50%
Area 8 (Undesignated waters)	-9.76%	2.50%

The following tables reflect our proposed rate adjustments of 2.5 percent across all areas.

Tables 34 through 36 show these calculations.

Table 34: Proposed adjustment of pilotage rates, areas in District One

	2013 Rate		Rate Multiplier		Adjusted rate for 2014
Area 1 St. Lawrence River					
Basic Pilotage	$18.75/km, $33.19/mi	x	1.025	=	$19.22/km, $34.02/mi
Each lock transited	$416	x	1.025	=	$426
Harbor movage	$1,361	x	1.025	=	$1,395
Minimum basic rate, St. Lawrence River	$908	x	1.025	=	$931
Maximum rate, through trip	$3,984	x	1.025	=	$4,084
Area 2					

Lake Ontario					
6-hour period	$851	x	1.025	=	$872
Docking or undocking	$812	x	1.025	=	$832

Note: Numbers may not total due to rounding.

In addition to the proposed rate charges in Table 34, and for the reasons we discussed in the Summary section of Part V of this preamble, we propose adding the authority to impose surcharges in the governing regulations and, under that new regulation, we propose authorizing District One to implement a temporary supplemental 3 percent charge on each source form (the "bill" for pilotage service) for the duration of the 2014 shipping season, which begins in March 2014. The Canadian Great Lakes Pilotage Authority (GLPA) has used an 18 percent surcharge without disrupting traffic. As a result, we have concluded that a 3 percent surcharge will not disrupt traffic. District One must provide us with monthly status reports once this surcharge becomes effective for the duration of the 2014 shipping season, which begins in March 2014. We will exclude these training expenses from future rates.

Table 35: Proposed adjustment of pilotage rates, areas in District Two

	2013 Rate		Rate Multiplier		Adjusted rate for 2014
Area 4 Lake Erie					
6-hour period	$828	x	1.025	=	$849
Docking or undocking	$637	x	1.025	=	$653
Any point on Niagara River below Black Rock Lock	$1,626	x	1.025	=	$1,667
Area 5 Southeast Shoal to Port Huron, MI between any point on or in					
Toledo or any point on	$1,382	x	1.025	=	$1,417

Lake Erie W. of Southeast Shoal					
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	$2,339	x	1.025	=	$2,397
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	$3,037	x	1.025	=	$3,113
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	$2,339	x	1.025	=	$2,397
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	$4,074	x	1.025	=	$4,176
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	$4,719	x	1.025	=	$4,837
Port Huron Change Point & Detroit River	$3,060	x	1.025	=	$3,137
Port Huron Change Point & Detroit Pilot Boat	$2,381	x	1.025	=	$2,441
Port Huron Change Point & St. Clair River	$1,693	x	1.025	=	$1,735
St. Clair River	$1,382	x	1.025	=	$1,417
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	$4,074	x	1.025	=	$4,176
St. Clair River & Detroit River/Detroit Pilot Boat	$3,060	x	1.025	=	$3,137
Detroit, Windsor, or Detroit River	$1,382	x	1.025	=	$1,417
Detroit, Windsor, or Detroit River & Southeast Shoal	$2,339	x	1.025	=	$2,397
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	$3,037	x	1.025	=	$3,113
Detroit, Windsor, or Detroit River & St. Clair River	$3,060	x	1.025	=	$3,137

Detroit Pilot Boat & Southeast Shoal	$1,693	x	1.025	=	$1,735
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	$2,339	x	1.025	=	$2,397
Detroit Pilot Boat & St. Clair River	$3,060	x	1.025	=	$3,137

Note: Numbers may not total due to rounding.

Table 36: Proposed adjustment of pilotage rates, areas in District Three

	2013 Rate		Rate Multiplier		Adjusted rate for 2014
Area 6 Lakes Huron and Michigan					
6-hour Period	$691	x	1.025	=	$708
Docking or undocking	$656	x	1.025	=	$672
Area 7 St. Mary's River between any point on or in					
Gros Cap & De Tour	$2,583	x	1.025	=	$2,648
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	$2,583	x	1.025	=	$2,648
Algoma Steel Corp. Wharf, Sault. Ste. Marie, Ont. & Gros Cap	$973	x	1.025	=	$997
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	$2,165	x	1.025	=	$2,219
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	$973	x	1.025	=	$997
Sault Ste. Marie, MI	$2,165	x	1.025	=	$2,219

& De Tour					
Sault Ste. Marie, MI & Gros Cap	$973	x	1.025	=	$997
Harbor movage	$973	x	1.025	=	$997
Area 8 Lake Superior					
6-hour period	$586	x	1.025	=	$601
Docking or undocking	$557	x	1.025	=	$571

Note: Numbers may not total due to rounding.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and 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 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule is not a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

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 2014 shipping season to generate sufficient revenue to cover allowable expenses, and to target pilot compensation and returns on pilot associations' investments. The rate adjustments in this proposed rule would, if codified, lead to a cost in District One and cost savings in Districts Two and Three. The cost savings that would accrue to Districts Two and Three would outweigh the cost to District One, which would result in an estimated annual cost savings to shippers of approximately $817,983 across all three districts.[5]

In addition to the overall cost savings that would accrue to all three districts as a result of the rate adjustments, we propose authorizing District One to implement a temporary supplemental 3 percent surcharge to traffic in District One in order to recover training expenses from 2012. This temporary surcharge would be authorized for the duration of the 2014 shipping season, which begins in March. We estimate that this would generate $120,070. At the end of the 2014 shipping season, we will account for the monies the surcharge generates and make adjustments (debits/credits) to the operating expenses for the following year.[6]

Therefore, this proposed rule is expected to result in a cost savings to shippers of approximately $697,914 across all three districts.[7]

A regulatory assessment follows.

[5]Despite increasing Great Lakes pilotage rates, on average, by approximately 2.5 percent from the current rates set in the 2013 final rule, we estimate a net cost savings across all three districts as a result of an expected decrease in the demand for pilotage services from the previous year.
[6]Assuming our estimate is correct, we would credit District One shippers $71,075 in order to account for the difference between the total surcharges collected ($120,070) and the actual training expenses incurred ($48,995).
[7]Total cost savings across all three districts is equal to the cost savings from rate changes plus a temporary surcharge to traffic in District One.

The proposed rule would apply the 46 CFR part 404, Appendix A, full ratemaking methodology, including the exercise of our discretion to increase Great Lakes pilotage rates, on average, approximately 2.5 percent overall from the current rates set in the 2013 final rule. The Appendix A methodology is discussed and applied in detail in Part V of this preamble. Among other factors described in Part V, it reflects audited 2011 financial data from the pilotage associations (the most recent year available for auditing), projected association expenses, and regional inflation or deflation. The last full Appendix A ratemaking was concluded in 2013 and used financial data from the 2010 base accounting year. The last annual rate review, conducted under 46 CFR part 404, Appendix C, was completed early in 2011.

The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The Coast Guard's interpretation is that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this proposed rule, such as recreational boats and vessels operating only within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect our calculation of the rate and is not a part of our estimated national cost to shippers. Our sampling of pilot data suggests that there are very few U.S. domestic vessels that do not have registry and operate only in the Great Lakes that voluntarily purchase pilotage services.

We used 2010-2012 vessel arrival data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment. Using that period, we found that approximately 128 vessels journeyed into the Great Lakes system annually. 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 128 vessels, there were approximately 353 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2010-2012 vessel data from MISLE.

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

We estimate the additional impact (costs or savings) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs in 2014, based on the 2013 rate adjustment, and the total projected revenue needed to cover costs in 2014, as set forth in this proposed rule, plus any temporary surcharges authorized by the Coast Guard. Table 37 details projected revenue needed to cover costs in 2014 after making the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble. Table 38 summarizes the derivation for calculating the 3 percent surcharge on District One traffic as discussed in Step 7 of Part VI of this preamble. Table 39 details the additional costs or savings by area and district as a result of the rate adjustments and the temporary surcharge to District One traffic.

Table 37: Rate adjustment by area and district ($U.S.; Non-discounted)

	2013 Pilotage Rates[8]	Rate Change[9]	2014 Pilotage Rates[10]	Projected 2014 Bridge Hours[11]	Projected Revenue Needed in 2014[12]
Area 1	$460.97	1.0250	$472.50	5,116	$2,417,285
Area 2	$284.84	1.0250	$291.96	5,429	$1,585,032
Total, District One	-	-	-	-	$4,002,318
Area 4	$205.27	1.0250	$210.40	5,814	$1,223,262
Area 5	$508.91	1.0250	$521.64	5,052	$2,635,314
Total, District Two	-	-	-	-	$3,858,576
Area 6	$199.95	1.0250	$204.95	9,611	$1,969,800
Area 7	$482.94	1.0250	$495.01	3,023	$1,496,427
Area 8	$186.67	1.0250	$191.34	7,540	$1,442,677
Total, District Three	-	-	-	-	$4,908,904

*Some values may not total due to rounding.

Table 38: Derivation of Temporary Surcharge

	Area 1	Area 2
Projected Revenue Needed in 2014[13]	$2,417,285	$1,585,032
Surcharge Rate	3%	3%
Surcharge Raised	$72,519	$47,551
Total Surcharge		$120,070

Table 39: Impact of the proposed rule by area and district ($U.S.; Non-discounted)

[8]These 2013 estimates are described in Table 16 of this NPRM.
[9]The estimated rate changes are described in Table 33 of this NPRM.
[10]2014 Pilotage Rates = 2013 Pilotage Rates x Rate Change.
[11]These 2014 estimates are detailed in Table 14 of this NPRM.
[12]Projected Revenue needed in 2014 = 2014 Pilotage Rates x Projected 2014 Bridge Hours.
[13]These estimates are described in Table 37 of this NPRM.

	Projected Revenue Needed in 2013[14]	Projected Revenue Needed in 2014	Temporary Surcharge[15]	Additional costs or savings of this proposed rule
Area 1	$2,404,424	$2,417,285	$72,519	$85,380
Area 2	$1,569,160	$1,585,032	$47,551	$63,423
Total, District One	$3,973,584	$4,002,318	$120,070	$148,803
Area 4	$1,398,694	$1,223,262	-	($175,432)
Area 5	$2,596,484	$2,635,314	-	$38,830
Total, District Two	$3,995,178	$3,858,576	-	($136,602)
Area 6	$2,281,673	$1,969,800	-	($311,873)
Area 7	$1,556,517	$1,496,427	-	($60,090)
Area 8	$1,780,829	$1,442,677	-	($338,152)
Total, District Three	$5,619,019	$4,908,904	-	($710,115)

*Some values may not total due to rounding.

After applying the discretionary rate change in this NPRM, the resulting difference between the projected revenue in 2013 and the projected revenue in 2014 is the annual impact to shippers from this proposed rule. This figure is equivalent to the total additional payments or savings that shippers would incur for pilotage services from this proposed rule. As discussed earlier, we consider a reduction in payments to be a cost savings.

The impact of the discretionary rate adjustment in this proposed rule to shippers varies by area and district. The discretionary rate adjustments would lead to affected shippers operating in District One experiencing total cost increases of $28,733.56, and affected shippers operating in District Two and District Three experiencing total cost savings of $136,601.82 and $710,115.00, respectively. The savings that accrue to

[14]These 2013 estimates are described in Table 27 of the 2013 NPRM.
[15]These estimates are described in Table 38 of this NPRM.

shippers operating in District Two and District Three are the result of an expected decrease in the demand for pilotage services.

In addition to the rate adjustments, District One would also incur a temporary surcharge of 3 percent to traffic for the duration of the 2014 season in order to recover training expenses incurred from 2012. We estimate that this surcharge would generate $120,070. At the end of the 2014 shipping season, we will account for the monies the surcharge generates and make adjustments (debits/credits) to the operating expenses for the following year.[16]

To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less, depending on the distance and the number of port arrivals of their vessels' trips. However, the additional savings reported earlier in this NPRM does capture the adjustment the shippers would experience as a result of the proposed rate adjustment. The overall impact of this NPRM would be a cost savings to shippers of approximately $697,914 across all three districts.

This proposed rule would allow the Coast Guard to meet the statutory requirements to review the rates for pilotage services on the Great Lakes, thus ensuring proper pilot compensation.

Alternatively, if we imposed the new rates based on the new contract data from AMOU, there would be an approximately 11 percent decrease in rates across the system.

[16]Assuming our estimate is correct, we would credit District One shippers $71,075 at the end of the 2014 season in order to account for the difference between the total surcharges collected ($120,070) and the actual training expenses incurred by District One pilots ($48,995).

This would have a larger effect on industry, moving from a proposed cost savings of approximately $697,914 to a cost savings of approximately $2,367,640. Table 40 details projected revenue needed to cover costs in 2014 if the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble is not made. Table 41 details the additional costs or savings by area and district as a result of this alternative proposal.

Table 40: Alternative rate adjustment by area and district ($U.S.; Non-discounted))

	2013 Pilotage Rates	Rate Change	2014 Pilotage Rates	Projected 2014 Bridge Hours[17]	Projected Revenue Needed in 2014
Area 1	$460.97	0. 8627	$397.66	5,116	$2,034,432
Area 2	$284.84	0. 8354	$237.95	5,429	$1, 291,807
Total, District One	-	-	-	-	$3,326,239
Area 4	$205.27	1.0039	$206.07	5,814	$1,198,107
Area 5	$508.91	0.8417	$428.35	5,052	$2,164,002
Total, District Two	-	-	-	-	$3,362,109
Area 6	$199.95	0.9966	$199.27	9,611	$1,915,207
Area 7	$482.94	0.8539	$412.39	3,023	$1,246,659
Area 8	$186.67	0.9024	$168.45	7,540	$1,270,140
Total, District Three	-	-	-	-	$4,432,006

*Some values may not total due to rounding.

[17] These 2014 estimates are detailed in Table 14 of this NPRM.

Table 41: Alternative impact of the rule by area and district ($U.S.; Non-discounted)

	Projected Revenue Needed in 2013 (A)	Projected Revenue Needed in 2014 (B)	Temporary Surcharge[18] (C)	Additional costs or savings of this proposed rule (B-A) + C
Area 1	$2,404,424	$2,034,432	$61,033	($308,959)
Area 2	$1,569,160	$1,291,807	$38,754	($238,599)
Total, District One	$3,973,584	$3,326,239	$99,787	($547,558)
Area 4	$1,398,694	$1,198,107	-	($200,587)
Area 5	$2,596,484	$2,164,002	-	($432,482)
Total, District Two	$3,995,178	$3,362,109	-	($633,069)
Area 6	$2,281,673	$1,915,207	-	($366,466)
Area 7	$1,556,517	$1,246,659	-	($309,858)
Area 8	$1,780,829	$1,270,140	-	($510,689)
Total, District Three	$5,619,019	$4,432,006	-	($1,187,013)

*Some values may not total due to rounding.

We reject this alternative because a substantial rate decrease would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage service as well as violate the Memorandum of Arrangements, which calls for the United States' and Canada's pilotage rates to be comparable. See our discussion of Step 7 in Part VI of this preamble for further explanation.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-

[18] The temporary surcharge generated under this alternative is expected to be less than under the proposed alternative. This is a result of a substantial decrease in projected revenue due to the lower Projected Pilotage Rates for 2014 under this alternative.

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 from 2010-2012 Coast Guard MISLE data and business revenue and size data provided by publicly available sources such as MANTA and Reference USA. We found that large, foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated 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 impact to these entities from this proposed rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies, as well as how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (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, e-mail 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). This proposed rule would not change the burden in the collection currently approved by the OMB under OMB Control Number 1625-0086, Great Lakes Pilotage Methodology.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on 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 rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 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 outlined 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 prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 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, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process.

Therefore, the Coast Guard invites State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this NPRM. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document: (1) The extent of the Coast Guard's consultation with State and local officials who submit comments to this proposed rule; (2) a summary of the nature of any concerns raised by State or local governments and the Coast Guard's position thereon; and (3) a statement of the extent to which the concerns of State and local officials have been met. We will also report to the Office of Management and Budget any written communications with the States.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we 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 in 46 CFR Part 401

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

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

PART 401—GREAT LAKES PILOTAGE REGULATIONS

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

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

2. In § 401.400, revise paragraph (b) to read as follows:

§ 401.400 Calculation of pilotage units and determination of weighting factor.

* * * * *

(b) Weighting Factor Table:

Range of Pilotage Units	Weighting Factor
0 – 49	1.0
50 – 159	1.15
160 – 189	1.30

190 – and over	1.45

* * * * *

3. Add new § 401.401 to read as follows:

§ 401.401 Surcharges.

To facilitate safe, efficient, and reliable pilotage, and for good cause, the Director may authorize surcharges on any rate or charge authorized by this subpart. Surcharges must be proposed for prior public comment and may not be authorized for more than one year.

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

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$19.22 per kilometer or $34.02 per mile[1]
Each Lock Transited	$426[1]
Harbor Movage	$1,395[1]

[1]The minimum basic rate for assignment of a pilot in the St. Lawrence River is $931, and the maximum basic rate for a through trip is $4,084.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
6-hour Period	$872
Docking or Undocking	$832

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

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

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
6-hour Period	$849	$849
Docking or Undocking	$653	$653
Any point on the Niagara River below the Black Rock Lock	N/A	$1,667

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,397	$1,417	$3,113	$2,397	N/A
Port Huron Change Point	$4,176[1]	$4,837[1]	$3,137	$2,441	$1,735
St. Clair River	$4,176[1]	N/A	$3,137	$3,137	$1,417
Detroit or Windsor or the Detroit River	$2,397	$3,113	$1,417	N/A	$3,137
Detroit Pilot Boat	$1,735	$2,397	N/A	N/A	$3,137

[1]When pilots are not changed at the Detroit Pilot Boat.

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

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

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan

6-hour Period	$708
Docking or Undocking	$672

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any Harbor
Gros Cap	$2,648	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	$2,648	$997	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	$2,219	$997	N/A
Sault Ste. Marie, MI	$2,219	$997	N/A
Harbor Movage	N/A	N/A	$997

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
6-hour Period	$601
Docking or Undocking	$571

§ 401.420 [Amended]

7. Amend § 401.420 as follows:

a. In paragraph (a), remove the text "$126" and add, in its place, the text "$129"; and remove the text "$1,972" and add, in its place, the text "$2,021";

b. In paragraph (b), remove the text "$126" and add, in its place, the text "$129"; and remove the text "$1,972" and add, in its place, the text "$2,021"; and

c. In paragraph (c)(1), remove the text “$744” and add, in its place, the text “$763”; and in paragraph (c)(3), remove the text “$126” and add, in its place, the text “$129”, and remove the text “$1,972” and add, in its place, the text “$2,021”.

§ 401.428 [Amended]

8. In § 401.428, remove the text “$744” and add, in its place, the text “$763”.

Dated:

July 31, 2013

Rajiv Khandpur
Acting Director, Marine Transportation Systems Management
U.S. Coast Guard

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