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: Final rule.

SUMMARY: The Coast Guard is adjusting Great Lakes pilotage rates that were last amended in February 2013. The adjustments establish new base rates, and are made in accordance with a full ratemaking procedure. The Coast Guard is exercising its discretion to establish new base rates to more closely align with recent Canadian rate increases. The final rule also adjusts weighting factors used to determine rates for vessels of different size, adopts a new procedure for temporary surcharges, applies a temporary surcharge for one pilotage association, and allows pilotage associations to recoup the cost of dues paid to the American Pilots Association. This rulemaking promotes the Coast Guard's maritime safety mission.

DATES: Effective August 1, 2014 except for §§ 401.400 and 401.401 which are effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2013-0534 and are available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket online by going to http://www.regulations.gov and following the instructions on that website.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Todd Haviland, Coast Guard; telephone 202-372-2037, e-mail Todd.A.Haviland@uscg.mil. If you have questions on viewing material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

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I. Abbreviations

AMOU	American Maritime Officers Union
APA	American Pilots Association
CFR	Code of Federal Regulations
CPA	Certified Public Accountant
CPI	Consumer price index
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
GLPA	Great Lakes Pilotage Authority (Canada)
GLPAC	Great Lakes Pilotage Advisory Committee
MISLE	Marine Information for Safety and Law Enforcement
NAICS	North American Industry Classification System
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
ROI	Return on investment
U.S.C.	United States Code

II. Regulatory History

On August 8, 2013, we published a notice of proposed rulemaking (NPRM) titled "Great Lakes Pilotage Rates—2014 Annual Review and Adjustment" in the Federal Register (78 FR 48374). We received 11 submissions on the NPRM from multiple sources, including pilotage associations, pilots, pilot organizations, and shippers. No public meeting was requested and none was held.

III. Basis and Purpose

The basis of this rulemaking is the Great Lakes Pilotage Act of 1960 ("the Act") (46 U.S.C. Chapter 93), which requires U.S. vessels operating "on register"[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 of the department in which the Coast Guard is operating 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 of the Department of Homeland Security's (DHS's) duties and authority under the Act have been delegated to the Coast Guard. DHS Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of 46 CFR. Procedures for establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

The purpose of this rulemaking is to establish new base pilotage rates, using the 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 rulemaking 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 ("the Director") to operate a pilotage pool. It is important to note that, while we set rates, the Coast Guard does not control the actual number of pilots an association maintains. We ensure the association is able to provide safe, efficient, and reliable pilotage service. The Coast Guard also does not control the actual compensation that pilots receive. Each district association determines the actual compensation of its district, and each association uses 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 (GLPA), and accordingly is not included in the U.S. rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Act, to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open

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

bodies of water. While working in those undesignated areas, pilots must only “be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.” 46 U.S.C. 9302(a)(1)(B).

The last full ratemaking established the current base rates in 2013 (78 FR 13521, Feb. 28, 2013), using the ratemaking methodology described in 46 CFR part 404, Appendix A. Among other things, the Appendix A methodology requires us to review detailed pilotage association financial information, and we contract with independent accountants to assist in that review.

We opened this year’s ratemaking with an NPRM (78 FR 48374, Aug. 8, 2013) that reflected financial data for the 2011 shipping season, and that the proposed new base rates be calculated in accordance with the Appendix A methodology.

V. Discussion of Comments and Changes

We received 11 public submissions in response to our NPRM. Eight of those submissions came from pilotage associations, pilots, and pilot organizations; two came from groups that represent shippers who use Great Lakes pilotage service; and one came from the union whose contracts provide benchmark data for Great Lakes pilotage ratemaking.

A. AMOU Contracts

Seven commenters -- six pilots or pilot representatives, and the American Maritime Officers Union (AMOU) -- addressed our use of AMOU contracts to estimate the average annual compensation for masters and first mates on U.S. Great Lakes vessels, in accordance with Step 2.A of our Appendix A ratemaking methodology.

Many of these commenters took issue with the NPRM's statement, 78 FR 48374 at 48376, col. 2, that recent AMOU contracts are marked by "downward changes," and pointed out that AMOU contracts actually increase wages over a 5-year period. Our discussion is not a reflection on AMOU contract trends, but rather emphasizes that AMOU contract information, when factored into our Appendix A ratemaking methodology, could lead to a pilotage rate decrease, if not offset by the application of discretion under Step 7 of Appendix A.

The six pilot/pilot representative commenters said we had incorrectly interpreted or misapplied AMOU contract data. A registered lobbyist representing all three pilotage associations said we should have used the daily aggregate rate information included in an AMOU letter dated November 2, 2012, and further claimed that we based our calculations on "wrong multipliers."

We reject each of these assertions and confirm the accuracy of the figures given in our NPRM. The assertion of the registered lobbyist that we should have used data from the November 2, 2012 AMOU letter is unfounded. Prior to publication of the NPRM, the AMOU provided and confirmed contract data to us on four separate occasions in 2012: on November 2, November 15, December 5, and December 17. The first communication on November 2 (the letter referenced by the registered lobbyist) provided information on wages and benefits but was marked "proprietary," and therefore has not been and cannot be shared by the Coast Guard with the public. Because Coast Guard could not share the component data, Coast Guard and AMOU agreed that AMOU would provide daily aggregate data. The November 15 and December 5 letters provided information on 2013, 2014 and 2015 daily aggregate (wage and benefit) rates for Agreement A and Agreement

B, respectively. The letters indicated that the daily aggregate rates would increase by 3% each year. On December 17, 2012, we emailed a table of the aggregate rate data that we planned to use in the NPRM, and in response, the AMOU promptly emailed: "This table and only this table is acceptable to AMO[U]." That table's data, with 3% added in accordance with AMOU's correspondence, is what we presented in Table 11 of our NPRM, 78 FR at 48382. Multipliers are only used if we can site individual components of compensation in our calculations. Because our calculations were based only on the aggregate data shown in the table, they are not affected by "wrong multipliers."

In its October 4, 2013 comment on the NPRM, the AMOU offered “correct” daily aggregate rates that differ significantly from the figures in the table the AMOU confirmed as "acceptable" on December 17, 2012. The AMOU comment reflects a "season bonus" that the AMOU has not previously cited as part of its contracts, and that we do not recognize for purposes of Great Lakes pilotage compensation. 46 CFR 404.5(a). As a disinterested third party to our ratemakings, the AMOU is under no obligation to share contract information with us. The AMOU has not provided a copy of the contracts nor agreed to allow us to review them. This compromises our ability to use that data in a transparent way and prohibits us from evaluating the individual components for compensation. We are investigating alternatives to using AMOU contract data for our ratemaking purposes.

B. APA Dues

Four commenters addressed our proposed inclusion in the ratemaking calculations of dues for pilotage association membership in the American Pilots Association (APA). Three pilot representatives favored inclusion. One shipping industry commenter said that

APA membership is voluntary, and therefore should not be included. We consider the APA to play a key role in ensuring our mutual goals of safe, efficient, and reliable pilotage on the Great Lakes. The APA has assisted the three pilotage associations with professional development and training plans, and we believe the APA is a critical resource for the pilotage associations in spreading best practices throughout the pilotage profession. Therefore, we continue to find that APA dues are a necessary and reasonable expense of the pilotage associations. One pilotage association said we had incorrectly calculated its APA dues. The St. Lawrence Seaway Pilots' Association contends that APA dues paid by the organization were actually $27,730. We disagree. Much of the amount asserted by the association is for lobbying expenses that are not eligible to be included in the rate. However, a review of the financial statements approved by the pilotage association shows dues paid to the APA in the amount of $22,720. Accordingly we updated the necessary tables to include this amount, an addition to the expense base of $4,360. However, because of our Step 7 discretion, this change to the underlying data does not impact the final rate.

C. Pilot License Insurance

One pilotage association commented that we failed to include the amount that the association paid for pilot license insurance in our calculations. This is incorrect. The association requested a change in reporting that moved license insurance from an operating expense to an employee benefit. The association again approved the change when they were given the opportunity to comment on the reports prepared by the auditors. Benefits are considered part of compensation, and are not allowed to be included separately in the rate. However, because we have historically included license insurance as an allowable expense, and because both of the other pilotage associations include license insurance as an allowable expense, we will allow inclusion of the 2011 license insurance cost ($52,232) in the expense base of the association. Again, because of our exercise of Step 7 discretion in this rulemaking, this change to the expense base does not alter the final rate.

D. Weighting Factors

Five commenters addressed our proposal to match U.S. weighting factors to those used by Canada. All were in favor of this proposal, but one pilotage association said we overestimated the beneficial impact, for pilots, of adjusting weighting factors (see the NPRM, 78 FR 48376). One pilot commented that it is unfair of us not to apply a retroactive rate adjustment recognizing the 6 years during which the U.S. weighting factors differed from those used by Canada. We think the association based its lower estimate on its local data, not on data for the Great Lakes as a whole. We stand by our estimate of the beneficial impact of the adjustment.

E. Surcharges

Two pilot representatives and two representatives of shippers commented on our proposal to allow establishment of temporary surcharges. The pilot representatives supported the proposal. One of the shipper representatives said our proposal was too vague and that surcharges could have a damaging economic impact, and the other said it is unnecessary because the Director of Great Lakes Pilotage already has sufficient authority to make discretionary rate adjustments. We think the proposal is sufficiently clear, and this final rule adopts it. Whether any given surcharge will have a damaging economic impact can be the subject of public comment, an opportunity for which will be given each time we propose a surcharge. While it is true that the Director has substantial authority to make discretionary rate adjustments, we believe that the surcharge mechanism is preferable because it provides more regulatory transparency.

F. Director Discretion

Our regulations found in 46 CFR 404.10(a) give the Director of Great Lakes Pilotage discretionary authority to determine what "other circumstances" beyond those listed in the Appendix A ratemaking methodology might need to be factored into ratemaking calculations. Two shipper representatives and one pilot representative commented on the Director's exercise of this discretionary authority. The pilot representative commented the latitude of the Director's discretion to modify rates as calculated by the Appendix A methodology is "troubling." One of the shipper representatives commented that the apparent need for the Director to exercise this discretion indicates there is something "definitely wrong" with the methodology given that the calculated rates and the rates that were actually implemented are drastically different. We agree with both commenters. Our concerns about possible flaws in the Appendix A methodology led us to commission the comprehensive study of that methodology, which a contractor recently completed for the Coast Guard. The recommendations from that study will be addressed in a future rulemaking.

Separately, another shipper representative commented that the Director's proposed discretionary adjustment of rate calculations to increase rates would have a "damaging economic impact." We disagree. Pilotage charges in U.S. waters of the Great Lakes remain below the charges (including temporary surcharges) that apply in Canadian waters. We know of no evidence that U.S. pilotage rates are driving traffic away from the Great Lakes. We plan to exercise the Director's authority in future rulemakings until the methodology is updated. We will use the surcharges to accelerate certain expenses as previously discussed. Until we are able to obtain an audit of the revenues by an independent third party, we will rely upon inflation and the consumer price index (CPI) for the Midwest to guide our ratemaking adjustments. If the revenue audit reveals a significant revenue gap between the projected revenues and the actual revenues recovered by the rate, we will work with the stakeholders through the Great Lakes Pilotage Advisory Committee (GLPAC) and exercise our discretion to address the gap.

G. Ratemaking Methodology

Four pilot representatives and one shipper representative commented on our ratemaking methodology. Three pilot representatives commented that we should use a multi-year inflation factor to compensate for the time value of money between the time the audits are conducted and the rate is established (for the 2014 NPRM, we proposed to use 2011 data that was audited in 2012). Under Step 1.C of the Appendix A ratemaking methodology, the ratemaking adjustment for inflation or deflation is a one-year adjustment between the reported year (2011) and the "succeeding navigation season" (2012). We are therefore unable to make a multi-year adjustment under the current methodology; however, we acknowledge the pilots' concern and will consider altering the inflation/deflation adjustment mechanism in a future rulemaking.

A pilot and a pilot representative reiterated the pilots' long-held contention (see the 2013 final rule, 78 FR 13522) that our over-projection of shipping traffic results in an over-projection of pilotage revenue. One of these commenters said that the Coast Guard should ensure that pilots reach target compensation. We agree that traffic projection is an issue that needs to be addressed in a future rulemaking to revise the Appendix A methodology, but we disagree that the Coast Guard should ensure that pilots reach target compensation. The Coast Guard never sets actual compensation; instead, actual compensation is handled differently by the three private pilotage associations. Due to the inherent risk in operating a private business, we cannot guarantee compensation for any of the associations.

A pilot commented that, under the 1977 Memorandum of Agreement between the United States and Canada, U.S. pilotage rates must be identical to Canadian rates. He said that while our proposed 2.5 percent rate increase matches the latest Canadian increase, the two rate structures are not identical. While it is true that the 1977 agreement does require "identical" rates, in practice the two pilotage systems are so differently structured that it has not been possible to set identical rates since the early 1980s. A new memorandum has been signed and will replace the 1977 agreement. It calls for "comparable" rates. We believe that, after accounting for the structural differences in U.S. and Canadian Great Lakes pilotage systems, the two rate structures are comparable.

The same commenter reiterated the pilots' long-held contention (see the 2010 final rule, 75 FR 7959, Feb. 23, 2010) that we incorrectly calculate the application of benefits to the AMOU contracts in setting rates for designated waters, and that we should instead multiply both the average first mate wages and benefits by 150 percent to approximate a master's compensation. Our position continues to be that, under Step 2.A of the Appendix A methodology, the 150 percent is applied only to wages; benefits are then added to the result. As previously mentioned, we are evaluating if there are alternatives to using AMOU contract data for our ratemaking purposes.

Finally, the same commenter contends that we should allow a higher return on investment (ROI) than the average rate for Moody's AAA high grade corporate securities, given the degree of risk that pilots run. We have correctly calculated the ROI, in accordance with Step 5 of the Appendix A methodology, which requires us to tie ROI to the "preceding year's average rate of return for new issues of high grade corporate securities." We may revise our ROI calculations as part of a comprehensive revision of Appendix A.

The shipper representative suggested that our NPRM's Appendix A calculations, resulting in a pre-discretion-adjusted 11 percent rate decrease, may demonstrate that U.S. Great Lakes pilots are at least adequately compensated, and perhaps overcompensated by regional standards. We disagree. As we discussed at length in the NPRM (78 FR 48389), the pre-adjustment calculations are due to changes in benchmark AMOU contracts rather than to any changes in Great Lakes pilotage as such, and we think it would be contrary to the public interest to decrease pilotage rates as a result of this year's calculations. Additionally, incorporating these compensation changes would result in a target pilot compensation significantly lower than Canadian Great Lakes-registered pilots. We believe this is also contrary to the public interest. We intend to address this inequity in target pilot compensation in a future rulemaking. We believe the proper benchmark for target pilot compensation of U.S. Great Lakes registered pilots should be comparable to the compensation of Canadian Great Lakes registered pilots.

<u>H. Economic Analysis</u>

A pilot commented that footnote 5 to our NPRM (78 FR 48391) "defies common sense." The footnote states that despite increasing pilotage rates, "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." Although we agree with the commenter that the reduction in payments accrued by shippers in Districts Two and Three are not a result of the Coast Guard's proposed rate changes to pilotage services, but instead are the result of changes in market conditions, the economic impact to industry presented in the NPRM remains unchanged because these market conditions were factored into our analysis; the aggregate reduction in payments by shippers across all three districts is not expected to jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage services.

I. Number of Pilots

The District Two pilotage association requested immediate authorization for an additional pilot in light of the impending retirement of current pilots in that district. We agree that the district should plan for these expected retirements, but we do not think that requires the immediate authorization of an additional billet. However, the unforeseen potential medical disability of another pilot in the district compounds the difficulty of resourcing new pilots to replace those retiring. Because investing in the training, recruitment and resourcing of pilots is necessary to promote safe, efficient and reliable pilotage, we will, in accordance with our new surcharge authority, consider proposing, for public comment, a surcharge for District Two to cover the cost of training and resourcing a new pilot in our 2015 ratemaking NPRM.

J. District One Dock

The District One pilotage association said that our rates have not enabled them to recover approximately $21,345 spent on a dock project, because their actual revenue fell short of our projections. We agree that $21,345 is a substantial shortfall relating to a capital expenditure made in the interest of safety. We have not validated the existence and/or magnitude of the alleged gap between projected and actual revenues, because the methodology does not consider actual revenues to set rates. Therefore, we believe any discussion related to closing a gap between projected and actual revenues should be addressed by the GLPAC.[3] We defer action on this request until we hear from the advisory committee regarding this specific request at the next GLPAC meeting in 2014. We will then address this in the next annual ratemaking NPRM for the 2015 shipping season.

VI. Discussion of Rulemaking

A. Summary

As required by 46 U.S.C. 9303(f), we are establishing new base pilotage rates by the March 1, 2014 statutory deadline. The rates are established in accordance with the Appendix A methodology and will take effect on August 1, 2014. The rates reflect our determination that 85 percent of the dues paid by the pilotage associations to the APA is recognizable expenses under 46 CFR 404.5 (the remaining 15 percent represents lobbying expenses, which are not recognizable expenses). Our arithmetical calculations under Steps 1 through 6 of Appendix A would result in an average 10.28 percent rate decrease. This rate decrease is not the result of increased efficiencies in providing pilotage services, but rather is a result of recent changes in benchmark AMOU contracts. Therefore, we are exercising our discretion under Appendix A, Step 7 to more closely

[3] Per 46 U.S.C. 9307(d)(1), as delegated to the Coast Guard, we are to, "whenever practicable, consult with the [GLPAC] before taking any significant action relating to Great Lakes pilotage."

align with the recent Canadian rate adjustment, and therefore rates in Districts One, Two and Three will increase by 2.5 percent.

On [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], we are adjusting the U.S. weighting factors in 46 CFR 401.400 to match the weighting factors adopted by Canada in 2008, as recommended unanimously by the GLPAC in Resolution 13-01 in February 2013. 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 provides greater parity between the U.S. and Canada, and should reduce billing confusion between the two countries. These are important Federal Government concerns, as emphasized by recent Executive Order (E.O.) 13609, "Promoting International Regulatory Cooperation" (77 FR 26413, May 4, 2012). In our NPRM, we proposed making this change effective on March 1, 2014, but for reasons of administrative convenience we have now determined that the change should take effect after the usual 30-day waiting period provided by the Administrative Procedure Act (5 U.S.C. 553(d)).

Also, effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], we are adding new 46 CFR 401.401, allowing authorization of temporary surcharges in the interest of safe, efficient, and reliable pilotage. The Director of Great Lakes Pilotage authorizes the District One pilotage association to charge a 3 percent surcharge during the 2014 shipping season, effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], to recoup expenses that the association incurred for training ($48,995).

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

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 applied them to the 2011 financial 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 pilotage 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 to 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 pilotage associations; they reviewed and commented on those findings, and the accountant then finalized them. The Director reviewed and accepted the final findings, resulting in the determination of recognizable expenses. Tables 1 through 3 show each association's recognized expenses.

Table 1: Recognized expenses, 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	$26,976	$25,256	$52,232
Payroll taxes	$61,483	$47,611	$109,094
Other	$837	$588	$1,425
Total Other Pilotage Costs	$324,020	$229,701	$553,721
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	$11,360	$11,360	$22,720
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	$209,523	$146,332	$355,855
Total Operating Expenses	$653,926	$458,862	$1,112,788
Adjustments proposed by the Coast Guard's 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	$664,317	$466,012	$1,130,329

Table 2: Recognized expenses, 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
Adjustments proposed by the Coast Guard's independent certified public accountant (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

Table 3: Recognized expenses, 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
Adjustments proposed by the Coast Guard’s independent certified public accountant (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

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 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 4 through 6.

Table 4: Inflation adjustment, District One

		Area 1		Area 2		Total
Reported expenses for 2011		St. Lawrence River		Lake Ontario		
Total Operating Expenses:		$664,317		$466,012		$1,130,329
2012 change in the CPI for the Midwest Region of the United States	x	.02	x	.02	x	.02
Inflation Adjustment	=	$13,286	=	$9,320	=	$22,607

Table 5: 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 6: 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 7 shows these projections.

Table 7: Projected operating expenses, District One

		Area 1		Area 2		Total
Reported expenses for 2011		St. Lawrence River		Lake Ontario		
Total operating expenses		$664,317		$466,012		$1,130,329
Inflation adjustment 2.0%	+	$13,286	+	$9,320	+	$22,607
Total projected expenses for 2014 pilotage season	=	$677,603	=	$475,332	=	$1,152,936

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 8 shows these projections.

Table 8: 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 9 shows these projections.

Table 9: 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 mate's wages by 150 percent and then adding the average first mate's 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 10 shows our calculations using the 270-day multiplier.

Table 10: Projected annual aggregate rate components

Aggregate Rate–Wages, 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 11 provides details.

Table 11: 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 11 to apportion the projected compensation from Table 10. This gives us a single tonnage-weighted set of figures. Table 12 shows our calculations.

Table 12: 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 basic 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 (see 76 FR 6352, Feb. 4, 2011), we do not include, and have never 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 (see 74 FR 22221-22, Jan. 5, 2009), we determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 13 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 13: 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 waters)	9,611	÷	1,800	=	5.339	6
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 14, we project total target pilot compensation separately for each area by multiplying the number of pilots

needed in each area, as shown in Table 13, by the target pilot compensation shown in Table 12.

Table 14: 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

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 13, and if 2013 pilotage rates are left unchanged. Table 15 shows this calculation.

Table 15: Projection of revenue by area

Pilotage area	Projected 2014 bridge hours		2013 Pilotage rates*		Revenue projection for 2014
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
*Projected 2013 revenue divided by projected 2013 bridge hours, per area					

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 16 through 18 follow the formula up to that point.

Table 16: 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 17: 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 18: 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 16 through 18 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 pilotage 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 19 applies the multiplier of 1 and shows that the investment base for each association equals its total recognized assets. Table 19 also expresses these results by area, because area results will be needed in subsequent steps.

Table 19: 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 pilotage associations that provide pilotage services in Districts One and Three operate as partnerships. The pilotage 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 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 sub-step of Step 6 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 20 through 22.

Table 20: 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)	-	$677,603	-	$475,332
Pilot Compensation (from Step 2)	-	$1,349,999	-	$819,298
Operating Profit/(Loss)	=	$330,725	=	$251,743
Interest Expense (from audits)	-	$18,484	-	$12,718
Earnings Before Tax	=	$312,241	=	$239,025
Federal Tax Allowance	-	$0	-	$0
Net Income	=	$312,241	=	$239,025
Return Element (Net Income + Interest)		$330,725		$251,743
Investment Base (from Step 4)	÷	$996,442	÷	$685,602
Projected ROI	=	0.3319	=	0.3672

Table 21: 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 ROI	=	0.0282	=	0.5287

Table 22: 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 ROI	=	0.0473	=	0.9649	=	0.4965

The second sub-step compares the results of Tables 20 through 22 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 23 shows this comparison for each area.

Table 23: Comparison of projected ROI and target ROI, by Area

	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 ROI	0.3319	0.3672	0.0282	0.5287	0.0473	0.9649	0.4965
Target ROI	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367
Difference in ROIs	0.2952	0.3305	(0.0085)	0.4920	0.0106	0.9282	0.4598

Because Table 23 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 24. 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 24: 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)	$677,603	+	$1,349,999	+	$36,569	+	$0	=	$2,064,171
Area 2 (Undesignated waters)	$475,332	+	$819,298	+	$25,162	+	$0	=	$1,319,791
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	$4,134,394	+	$6,877,187	+	$154,498	+	$12,000	=	$11,178,078

The "Revenue Needed" column of Table 24 is more than the revenue we projected in Table 15. For purposes of transparency, we verify the calculations in Table 24 by rerunning the formula in the first sub-step of Step 6, using the revenue needed from Table 24 instead of the Table 15 revenue projections we used in Tables 20 through 22. Tables 25 through 27 show that attaining the Table 24 revenue needed is sufficient to recover target ROI.

Table 25: Balancing revenue needed and target ROI, District One

		Area 1		Area 2
Revenue Needed		$2,064,171		$1,319,791
Operating Expenses (from Step 1)	-	$677,603	-	$475,332
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
ROI	=	0.0367	=	0.0367

Table 26: 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
ROI	=	0.0367	=	0.0367

Table 27: 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
ROI	=	0.0367	=	0.0367	=	0.0367

Step 7: Adjustment of pilotage rates. Finally, and subject to negotiation with Canada or to an adjustment for other supportable circumstances, we calculate rate adjustments by dividing the Step 6 revenue needed (Table 24) by the Step 3 revenue projection (Table 15), to give us a rate multiplier for each area. Tables 28 through 30 show these calculations.

Table 28: Rate multiplier, areas in District One

Ratemaking Projections		Area 1 St. Lawrence River		Area 2 Lake Ontario
Revenue Needed (from Step 6)		$2,064,171		$1,319,791
Revenue (from Step 3)	÷	$2,358,327	÷	$1,546,373
Rate Multiplier	=	0.8753	=	0.8535

Table 29: Rate multiplier, areas in District Two

Ratemaking Projections		Area 4 Lake Erie		Area 5 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 30: 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 24) by total projected revenue (Steps 3 and 3.A, Table 15). Table 31 shows this calculation.

Table 31: Rate multiplier for basic rates and charges in 46 CFR 401.420 and 401.428

Ratemaking Projections		
Total Revenue Needed (from Step 6)		$ 11,178,078
Total revenue (from Step 3)	÷	$ 12,458,339
Rate Multiplier	=	0.897

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 10.3 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 28 through 30 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 is a result of recent significant changes in 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 the association to permanently close. Moreover, the decrease would have an adverse effect on providing safe, efficient, and reliable pilotage in the other two pilotage districts. Finally, our 2013 agreement with Canada calls for comparable pilotage rates between the two countries, and we proposed aligning our rates to the Canadian rate, which actually increased by 2.5 percent this year. Our discretionary authority under Step 7 must be "based on requirements of the Memorandum… between the United States and Canada, and other supportable circumstances that may be appropriate." 46 CFR part 404, App. A. Without the 2.5 percent increase, U.S. and Canadian rates would be less comparable. "Other supportable circumstances" we have for exercising our discretion include E.O. 13609, "Promoting International Regulatory Cooperation," which calls on Federal agencies to eliminate "unnecessary differences" between U.S. and foreign regulations (see 77 FR 26413, May 4, 2012). Additionally, there is a 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 are relying on the discretionary authority we have under Step 7 to further adjust rates so that they closely align with those adopted by the Canadian GLPA for 2014. Table 32 compares the impact, area by area, that an average decrease of 11 percent would have, relative to the impact each area would experience if U.S. rates more closely align with those of the Canadian GLPA.

Table 32: 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)	-12.47%	2.50%
Area 2 (Undesignated waters)	-14.65%	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%

Tables 33 through 35 reflect our rate adjustments of 2.5 percent across Districts One, Two and Three.

Table 33: 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

In addition to the rate charges in Table 33, and for the reasons we discussed in Section V.A. of this preamble, we are adding 46 CFR 401.401, authorizing imposition of temporary surcharges. Effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], we authorize 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. We do not think this surcharge will have a disruptive effect on District One traffic, because Canada has used an 18 percent surcharge in the past with no such effect.

Table 34: 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 Lake Erie W. of Southeast Shoal	$1,382	x	1.025	=	$1,417
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	$2,339	x	1.025	=	$2,397

Shoal					
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

Table 35: 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	$973	x	1.025	=	$997

Corp. Wharf & Gros Cap					
Sault Ste. Marie, MI & De Tour	$2,165	x	1.025	=	$2,219
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

VII. Regulatory Analyses

We developed this 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 rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

Based on comments received, the Coast Guard is adjusting the operating expense base in District One in order to account for an addition to the expense base of $4,360 for APA dues, as well as the inclusion of the 2011 license insurance cost ($52,232) in the expense base. However, because of our Step 7 discretionary adjustment to pilotage rates, which increases rates by 2.5 percent from the previous year in all three districts, these changes to the underlying data do not impact the final rates. Despite this increase in pilotage rates, as well as the implementation of a temporary, supplemental surcharge to traffic in District One of 3 percent, we estimate that shippers will experience a reduction in payments from the previous year of approximately $697,914 across all three districts as a result of an expected decrease in the demand for pilotage services from the previous year.[4]

A regulatory assessment follows.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking, and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this 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 pilotage associations' investments. The rate adjustments in this final rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts. Despite these rate increases, however, we estimate that shippers in Districts Two and Three will experience a decrease in payments from the previous year

[4] Total reduction in payments made by shippers across all three districts is equal to the costs from rate changes (-$817,983) plus a temporary surcharge to traffic in District One ($120,070).

as a result of a decrease in demand for pilotage services. The reduction in payments that would occur in Districts Two and Three would outweigh the increase in payments in District One, which would result in an estimated annual decrease in payments by shippers of approximately $817,983 across all three districts.[5] After accounting for the implementation of a temporary 3 percent surcharge to traffic in District One, which is expected to generate $120,070, the annual payments made by shippers across all three districts for pilotage services are estimated to be approximately $697,914 less than the payments that were made in 2013.

The 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 in all three districts 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 routes in the Great Lakes system. These owners and

[5] This annual reduction in payments is due to a projected decrease in the number of billeted pilots in Areas 6 and 8 from 2013 to 2014, as well as an overall decrease in the demand for pilotage services across all three districts. This decrease in the demand for pilotage services would reduce the projected revenue needed to cover costs and pilotage services.

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 does not apply to recreational vessels.

Owners and operators of other vessels that are not affected by this 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; it does not affect our calculation of the rate, and it is not a part of our estimated national cost to shippers. Our sampling of pilot data suggests that there are very few domestic vessels that do not have a 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 data from 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, which include 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 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 (cost increases or cost decreases) of the rate adjustment in this rule to be the difference between the total projected revenue needed to cover costs in 2013, based on the 2013 rate adjustment, and the total projected revenue needed to cover costs in 2014, as set forth in this rule, plus any temporary surcharges authorized by the Coast Guard. Table 36 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 37 summarizes the derivation for calculating the 3 percent surcharge on District One traffic, as discussed earlier in this preamble. Table 38 details the additional cost increases or decreases by area and district as a result of the rate adjustments and the temporary surcharge to District One traffic.

Table 36: Rate adjustment by area and district ($U.S.; Non-discounted)

	2013 Pilotage Rates[6]	Rate Change[7]	2014 Pilotage Rates[8]	Projected 2014 Bridge Hours[9]	Projected Revenue Needed in 2014[10]
Area 1	$460.971	1.0250	$472.50	5,116	$2,417,285.09
Area 2	$284.836	1.0250	$291.96	5,429	$1,585,032.47
Total, District One	-	-	-	-	$4,002,317.56
Area 4	$205.268	1.0250	$210.40	5,814	$1,223,261.97
Area 5	$508.915	1.0250	$521.64	5,052	$2,635,314.21
Total, District Two	-	-	-	-	$3,858,576.18
Area 6	$199.954	1.0250	$204.95	9,611	$1,969,800.03
Area 7	$482.940	1.0250	$495.01	3,023	$1,496,427.14
Area 8	$186.670	1.0250	$191.34	7,540	$1,442,676.83

[6] These 2013 estimates are described in Table 15 of this final rule.
[7] The estimated rate changes are described in Table 32 of this rule.
[8] 2014 Pilotage Rates = 2013 Pilotage Rates x Rate Change.
[9] These 2014 estimates are detailed in Table 13 of this final rule.
[10] Projected Revenue needed in 2014 = 2014 Pilotage Rates x Projected 2014 Bridge Hours.

Total, District Three	-	-	-	-	$4,908,904.00
*Some values may not total due to rounding.					

Table 37: Derivation of Temporary Surcharge

	Area 1	Area 2
Projected Revenue Needed in 2014[11]	$2,417,285.09	$1,585,032.47
Surcharge Rate	3%	3%
Surcharge Raised	$72,518.55	$47,550.97
Total Surcharge	$120,069.53	

Table 38: Change in payments by shippers from the previous year by area and district ($U.S.; Non-discounted)

	Projected Revenue Needed in 2013	Projected Revenue Needed in 2014	Temporary Surcharge[12]	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 final rule, the resulting difference between the projected revenue in 2013 and the projected revenue in 2014 is the

[11] These estimates are derived in Table 36 of this final rule.
[12] These estimates are derived in Table 37 of this final rule.

annual change in payments from shippers to pilots after accounting for market conditions (i.e., a decrease in demand for pilotage services) and the change to pilotage rates as a result of this final rule. This figure is equivalent to the total additional payments or reduction in payments from the previous year that shippers would incur for pilotage services.

The impact of the discretionary rate adjustments in this final rule to shippers varies by area and district. Although the discretionary rate adjustments would lead to affected shippers experiencing an increase in payments for pilotage services in all three districts, when combined with the overall decrease in demand for pilotage services across all three districts, only shippers operating in District One are estimated to experience an increase in payments of $28,733.56, while affected shippers operating in District Two and District Three would experience a reduction in payments of $136,602.82 and $710,115.00, respectively from the previous year. This decrease in demand is projected to result in a decrease in the number of billeted pilots in Areas 6 and 8 from 2013 to 2014, which consequently would lead to a decrease in payments despite the increase in pilotage rates.

In addition to the rate adjustments, District One would incur a temporary surcharge to traffic for the duration of the 2014 season. In District One, shippers would incur a temporary 3 percent surcharge in order for the district's pilot association to recover training expenses incurred in 2012. We estimate that this surcharge would generate $120,070 in District One. 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.[13]

To calculate an exact cost or cost reduction 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 decrease in costs reported earlier in this final rule does capture the adjustment in payments that shippers would experience from the previous year. The overall adjustment in payments, after taking into account: (1) the decrease in demand for pilotage services; (2) the increase in pilotage rates; and (3) the addition of a temporary surcharge in District One, would be a reduction in payments by shippers of approximately $697,914 across all three districts.

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

Alternatively, if we instead 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. This would have a much more detrimental effect on pilots, as payments from shippers would decrease by approximately $2,308,184. In contrast, as discussed above, if the discretionary 2.5 percent increase is applied to traffic in Districts One, Two, and Three, the payment from shippers only decreases by $697,914. Table 39 details projected

[13] 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 expenses incurred by District One pilots ($48,995 (training)).

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 40 details the changes in payments to pilots from the previous year, by area and district, after accounting for: (1) a decrease in demand for pilotage services; (2) an increase in pilotage rates across all three districts; and (3) the addition of a temporary surcharge applied to traffic in District One.

Table 39: Alternative rate adjustment by area and district ($U.S.; Non-discounted)

	2013 Pilotage Rates	Rate Change[14]	2014 Pilotage Rates	Projected 2014 Bridge Hours	Projected Revenue Needed in 2014[15]
Area 1	$460.97	0.8753	$403.47	5,116	$2,064,171
Area 2	$284.84	0.8535	$243.10	5,429	$1,319,791
Total, District One	-	-	-	-	$3,383,963
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	-	-	-	-	$3,362,110
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.					

Table 40: Alternative change in payments by shippers from the previous year by area and district ($U.S.; Non-discounted)

[14] The estimated rate changes are described in Table 32 of this preamble.
[15] Projected Revenue needed in 2014 = 2014 Pilotage Rates x Projected 2014 Bridge Hours.

	Projected Revenue Needed in 2013 (A)	Projected Revenue Needed in 2014 (B)	Temporary Surcharge (C)	Total increase or decrease in payments (B-A) + C
Area 1	$2,404,424	$2,064,171	$61,925	($278,328)
Area 2	$1,569,160	$1,319,791	$39,594	($209,775)
Total, District One	$3,973,584	$3,383,963	$101,519	($488,102)
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	$3,362,110	-	($633,068)
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 decrease in payments by shippers would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage services, and it would 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 rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We expect that entities affected by the 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 final 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 this final rule that receive revenue from pilotage services. These are the three pilotage 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 final 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 final rule would not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Coast Guard (see FOR FURTHER INFORMATION CONTACT). 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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520. This rule does not change the burden in the collection currently approved by the OMB under 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.” Because States may not promulgate rules within this category, 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 have exclusive authority to promulgate regulations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 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 Executive Order 13132, please contact the person listed in the FOR FURTHER INFORMATION section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will 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 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 rule under E.O. 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This 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 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 order 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.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under DHS 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 concluded 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 final environmental analysis checklist supporting this determination is available in the docket where indicated under the ADDRESSES section of this preamble.

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 amends 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 § 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 1 year.

4. In § 401.405, revise paragraphs (a) and (b), including the footnote to paragraph (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) 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	[1]$4,176	[1]$4,837	$3,137	$2,441	$1,735
St. Clair River	[1]$4,176	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: February 25, 2014

Gary C. Rasicot
Director, Marine Transportation Systems Management
U.S. Coast Guard

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