DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2012–0409]

RIN 1625–AB89

Great Lakes Pilotage Rates—2013 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adjusting the rates for pilotage services on the Great Lakes, which were last amended in February 2012. The adjustments establish new base rates and are made in accordance with a full ratemaking procedure. This rulemaking promotes the Coast Guard's maritime safety mission.

DATES: This final rule is effective August 1, 2013.

ADDRESSES: Comments and material received from the public, as well as any documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0409 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 on the Internet by going to *http://www.regulations.gov,* inserting USCG–2012–0409 in the ''Keyword'' box, and then clicking ''Search.''

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

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

AMOU American Maritime Officers Union
APA American Pilots' Association
CFR Code of Federal Regulations
COBRA Consolidated Omnibus Budget Reconciliation Act
CPA Certified Public Accountant
CPI Consumer Price Index
E.O. Executive Order
FR Federal Register
GLPA Canadian Great Lakes Pilotage Authority
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
ROI Return on Investment
§ Section symbol
SPI Seaway Pilot, Inc.
U.S.C. United States Code

II. Regulatory History

On August 1, 2012, we published a notice of proposed rulemaking (NPRM) entitled ''Great Lakes Pilotage Rates—2013 Annual Review and Adjustment'' in the **Federal Register** (77 FR 45539). We received six comments on the NPRM from four sources, including the three pilots' associations and one District Three pilot. 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. 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 adjusted if necessary. 46 U.S.C. 9303(f). The Secretary's duties and authority under the Act have been delegated to the Coast Guard. Department of Homeland Security Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of Title 46, Code of Federal Regulations (CFR). Procedures for use in establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

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

IV. Background

The vessels affected by this rulemaking are engaged in foreign trade upon the U.S. waters of the Great Lakes. U.S. and Canadian ''Lakers,'' [2] which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

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

District One, consisting of Areas 1 and 2, includes all U.S. waters of the St. Lawrence River and Lake Ontario. District Two, consisting of Areas 4 and 5, includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three, consisting of Areas 6, 7, and 8, includes all U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority and, accordingly, is not included in the U.S. rate structure.

[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.

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

Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Act, to be waters in which pilots must at all times be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. While working in those undesignated areas, pilots must only ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(B).

This rule is a full ratemaking to establish new base pilotage rates, using the 46 CFR part 404, Appendix A, methodology. The last full ratemaking established the current base rates in the 2012 final rule (77 FR 11752, February 28, 2012). Among other things, the Appendix A methodology requires us to review detailed pilot association financial information, and we contract with independent accountants to assist in that review. This final rule is based on the review of 2010 financial information. The associations are given time to review and comment on the preliminary reports of the independent accountants, before the review is finalized. Comments by the pilots' associations on those reports and the independent accountant's final findings are available in the docket.

V. Discussion of Comments and Changes

We received six public comments on our NPRM from four sources, the three pilotage associations and a District Three pilot. Two of the associations filed two comments each. The third association filed a single series of comments from the association president and the association's certified public accountant.

Agreement A. Two associations said we made mistakes regarding the American Maritime Officers Union (AMOU) contracts, Agreement A and Agreement B, which provide data used by the Appendix A methodology.

First, the associations claimed the Agreement A health benefit should be \$105.61 per day, not \$52.96. Second, the associations claimed the Agreement A pension benefit should be \$44.61 per day, not zero. Third, the associations claimed the Agreement A daily wage rate should be \$295.94, not \$270.61.

Our NPRM correctly reflected the contract information that was available to us when the NPRM was published. However, as a result of these comments we reached out to AMOU to inquire if the contract that we had used was superseded. AMOU then provided us with more recent contract information. However, they now treat each individual component of wage, health, and pension benefits as proprietary information and did not consent to our request to disclose this information. Instead, they provided us with a daily aggregate rate for Agreements A and B for first mates on U.S. Great Lakes vessels, and validated our Agreements A and B aggregate rate values for designated waters. These aggregate rates combine, without separately identifying, the following inputs: Daily wage rate, vacation pay, pension plan contributions, and medical plan contributions.

In the past, those inputs were separately identified and we passed that information along to the public. For example, our August 2012 NPRM included Tables 11 (Projected Wage Components) and 12 (Projected Benefits Components). Now, because AMOU treats the separate inputs as proprietary information, the NPRM's Tables 11 and 12 must be replaced in this final rule by new Table 11 (Projected Annual Rate Components), which uses the AMOU's aggregate rates. This change in the degree of detail with which our tables display AMOU contract data does not result in any change in how those data are factored into our ratemaking methodology.

Weighting factors. Weighting factors are based on the size of a ship and are used in determining actual charges for pilotage service. All three associations pointed out that Canada now uses different weighting factors than the weighting factors used by the U.S. and shown in 46 CFR 401.400(b). Canada unilaterally changed its weighting factors in 2008 to reflect an industry shift to smaller vessels so that these smaller vessels carried a more fair portion of the costs associated with pilotage on the Great Lakes. As a result, a Canadian pilot on a ''1.0 factor'' vessel now charges 15 percent more than a U.S. pilot on the same vessel.

A similar comment was made during our 2010 ratemaking, and in the final rule for that ratemaking, 75 FR 7958 at 7959, col. 3 (Feb. 23, 2010), we declined to take action on the grounds that adjusting the weighting factors was beyond the scope of that rulemaking. Having made that determination in 2010, we cannot take action in this 2013 final rule, the public not having been afforded adequate notice in our August 1, 2012 NPRM that weighting factors might be under consideration for adjustment in the 2013 ratemaking. However, we agree with the associations that the U.S. should match the Canadian weighting factors, as a matter of parity and to reduce billing confusion between the two countries, both of which are important Federal Government concerns, as emphasized by recent Executive Order 13609, ''Promoting International Regulatory Cooperation'' (77 FR 26413, May 4, 2012). Therefore, although we will not address weighting factors in this final rule, we will do so either in the 2014 ratemaking or in a separate regulatory action.

American Pilots' Association dues. One association said we should factor into our ratemaking the dues that associations pay for membership in the American Pilots' Association (APA) because the APA ''continually collects information of value to its members [and] represents the pilotage organizations with international entities.'' We disagree. Our position has not changed from the position taken in our last two Appendix A ratemakings, completed in 2006 (71 FR 16501 at 16507, col. 3; April 3, 2006) and 2012 (77 FR 11752 at 11755, col. 2; Feb. 28, 2012). Our regulations provide clear guidance concerning this issue and state, ''[each] expense item included in the rate base is evaluated to determine if it is necessary for the provision of pilotage service, and if so, what dollar amount is reasonable for the expense.'' 46 CFR 404.5(a)(1). Recognizable expenses must be both ''reasonable and necessary for the provision of pilotage.'' This topic is analogous to a licensure issue. Expenditures associated with obtaining and maintaining one's pilot's license represent ''necessary'' expenses that are recognized. Membership in a voluntary special interest association, like the APA, is not necessary for the provision of pilotage. We continue to find that American Pilots' Association membership dues are not necessary, and thus are excluded from the rate's operating expenses.

Bridge hour projections. Two associations commented on Coast Guard procedures for projecting bridge hours, an important part of the Appendix A ratemaking methodology, and the District Three pilot commented on the negative impact on pilot revenue of over-projecting bridge hours. One association said that, in an unexplained departure from past practice, our NPRM multiplied 2011 revenue per bridge hour by projected bridge hours to arrive at projected revenue. The other association said we consistently over-project bridge hours, resulting in over-projection of revenue. We disagree with both comments. There has been no ''unexplained departure from past practice''—we have consistently followed Step 3.A of the Appendix A methodology which states: ''Projected demand for pilotage service is multiplied by the existing pilotage rates for that service, to arrive at the 'projection of revenue.' " As to over-projecting bridge hours, a concern raised by the associations and the District Three pilot, we have consistently improved our ability to project demand for pilotage services. We rely on historic data, input from pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services. Both associations said we should use a "less arbitrary" and more accurate method to project bridge hours. This rule applies the best available information to our current methodology. However, we understand the pilots' concern about definitions and methodologies relating to bridge hours and therefore those definitions and methodologies are currently undergoing an independent, comprehensive study and review. We anticipate the study will be completed by this summer. The results of the study will inform our assessment of whether changes to the regulations are needed, and we will publish a proposed rule updating definitions and methodologies if revisions are deemed necessary.

License insurance. The District One pilots' association said we should recognize two license insurance premium costs of $26,946 and $15,781, not $23,880 and $18,847, respectively. We disagree. The association did not raise this issue during the comment period for reviewing the independent accountant's preliminary report and the commenter has provided no subsequent data in support of its claim that the costs are incorrectly allocated.

Insurance costs. The District One pilots' association said we should increase its insurance costs by $4,491 to recognize the association's addition in 2011 of a fifth pilot. The association's implication is that, under Step 1.D of the Appendix A methodology, we should adjust our projections because the fifth pilot is a "foreseeable circumstance" that will affect the association's costs going forward. We disagree. The audits are based on a review of the 2010 financial statements, transactions, and documents. Therefore, the addition of a fifth pilot in 2011 would not be included in a review of the 2010 financial records. This expense will be captured and evaluated in the audit of the 2011 expenses. As we stated in the previous Appendix A ratemaking, "[we] consider significant capital expenditures and the fixed costs associated with those capital expenditures as 'foreseeable circumstances.' The rest of the expenses that fluctuate due to market forces and the variance in demand for pilot services will be reimbursed when they are recognized in the independent accountant's financial reports that we will use in future ratemaking." (*77 FR 11752 at 11755, col. 3*). Therefore, we will not include this expense in the 2013 Appendix A ratemaking.

Travel expenses. The District One pilots' association said our NPRM relied on an improper extrapolation in disallowing a $13,861 travel expense. We disagree. Our independent accountant determined that the expense at issue was not incurred in 2010. Only expenses incurred in that calendar year are eligible for consideration in this year's ratemaking.

Fixed assets. The District One pilots' association noted that virtually all of the association's fixed assets are owned by its "corporate arm," Seaway Pilot, Inc. (SPI) and claims that we erred in our calculation of the 2012 investment base. According to the pilots, we erroneously excluded $548,369 from SPI's investment base. The pilots believe we have calculated the investment base correctly in the 2013 NPRM, but assert we have never made them whole by correcting the 2012 rate. We disagree that any corrective action is needed with respect to our 2012 calculations. As we stated in the 2012 Appendix A final rule, "[we] coordinated with the independent accountant and used the financial information provided by District One to calculate the investment base for this rulemaking," and "the independent accountant's financial reports include the investment base calculation for future rulemakings." (*77 FR 11752 at 11755, col. 3*). We used the information that was provided to us by the association and do not see any grounds for making the suggested adjustment. The 2013 rate, as promised, includes the investment base calculation.

Inflation. The District One pilots' association said we should adjust the 2013 rate to reflect "a particularly egregious error" in the 2012 rate, the exclusion of an inflationary component based on the Consumer Price Index (CPI) for the years 2007 and 2008. The association also said our inflation adjustment should reflect inflation between 2010 and 2013, and that when Appendix A was created, no one foresaw how long it would take to recognize actual past financial data in new rates. We disagree. We used the 2009 association's financial transactions to determine the allowable operating expenses for the 2012 Appendix A ratemaking. We have always calculated the inflationary portion of operating expenses in accordance with Step 1.C of the Appendix A methodology, which states: "The inflation adjustment will be based on the preceding year's change in the Consumer Price Index for the North Central Region of the United States." We are currently engaged in a comprehensive study and review of the Appendix A methodology and will reevaluate how we take inflation into account. The possible need for changes in how we address inflation is within the scope of the previously-mentioned comprehensive study and review of our Great Lakes pilotage ratemaking methodology now underway.

Payroll tax methodology. The District One pilots' association said our NPRM's proposed adjustment for payroll taxes would be more appropriately based on target compensation than on actual 2010 pilot earnings. We disagree. The methodology was established to reimburse a given pilot association for its expenses that are necessary, reasonable, and directly related to providing pilotage services on the Great Lakes during the shipping season. We follow 46 CFR 404.5(a)(1), which states: "Each expense item included in the rate base is evaluated to determine if it is necessary for the provision of pilotage service, and if so, what dollar amount is reasonable for that expense item." We recognize that the payroll tax is a necessary expense, but we do not agree that we should use the value we calculate for target pilot compensation instead of the actual pilot compensation to determine the amount for payroll taxes. We consider it unreasonable to use a payroll tax amount other than the amount actually paid.

Health insurance subsidy. The District Two pilots' association said a $60,460 "COBRA subsidy" (referring to the Federal health subsidy under the Consolidated Omnibus Budget Reconciliation Act of 1985, or "COBRA") "should not be an adjustment to projected operating expenses, because pilot health insurance premiums are not included in the projected operating expense line item." We disagree. The methodology was established to reimburse a given pilot association for its expenses that are necessary, reasonable, and directly related to providing pilotage services on the Great Lakes during the shipping season. If an association obtains funding from a separate source to reimburse it for an expense, the expense must be proportionately discounted for ratemaking purposes. We cannot oblige industry to reimburse an association for an expense that has already been reimbursed. This practice would be contrary to the public's interest and inconsistent with prior determinations and rulemakings.

The District Two pilots' association also said it was given no opportunity to comment on a $99,993 COBRA expense reduction made in the 2012 final rule and that the 2013 rate should be adjusted to restore that amount. We disagree. We will not include the amount we excluded in the 2012 Appendix A ratemaking in the 2013 Appendix A ratemaking. The health insurance expense was accounted for in the 2012 Appendix A ratemaking, and thus the offset to that expense obtained by the pilots' association also needed to be accounted for. The methodology was established to reimburse a given pilots' association for its expenses that are necessary, reasonable, and directly related to providing pilotage services on the Great Lakes during a given shipping season. If an association obtains funding to reimburse it for an expense, the expense disappears for ratemaking purposes. We cannot compel industry to reimburse an association a second time for an expense that has already been reimbursed. This practice would be contrary to the public's interest and inconsistent with prior determinations and rulemakings.

VI. Discussion of the Final Rule

A. Summary

We are establishing new base pilotage rates in accordance with the methodology outlined in Appendix A to 46 CFR part 404. The new rates will be established by March 1, 2013 and will go into effect on August 1, 2013.

Based on baseline AMOU contract information that we received after publication of our August 2012 NPRM, our arithmetical calculations under Steps 1 through 6 of Appendix A would result in an average 15.89 percent rate decrease. However, as we will discuss when we explain our Step 7 adjustment of pilot rates, this year's rate adjustments will be what we proposed in the August 2012 NPRM, representing on average an approximately 1.87 percent increase over the February 2012 final rule's rate adjustments.

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

Table 1 shows the percent change for the new rates for each area.

TABLE 1—SUMMARY OF RATE ADJUSTMENTS

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

B. Calculating the Rate Adjustment

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

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

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

Step 1.B: Determination of Recognizable Expenses. This sub-step requires us to determine which reported association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition, or if they should not be allowed for ratemaking purposes. The independent accountant made preliminary findings, which were sent to the pilots' associations. The pilots' associations reviewed and commented on the preliminary findings. Then, the independent accountant made final findings. The Director reviewed and accepted those final findings, resulting in the determination of recognizable expenses. The preliminary findings, the associations' comments on those findings, and the final findings are all available in the docket. Tables 2 through 4 show each association's recognized expenses.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2010	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
Pilot Costs:			
Other pilotage costs:			
Pilot subsistence/Travel	$212,715	$167,880	$380,595
License insurance	23,880	18,847	42,727
Payroll taxes	0	0	0
Other	1,432	1,130	2,562
Total other pilotage costs	238,027	187,857	425,884
Pilot Boat and Dispatch Costs:			
Pilot boat expense	95,254	75,178	170,432
Dispatch expense	0	0	0

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

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

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2010	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total
Operating Expenses:			
Other pilotage costs:			
Pilot subsistence/Travel	$79,503	$119,254	$198,757
License insurance	6,168	9,252	15,420
Payroll taxes	53,457	80,186	133,643
Other	42,130	63,195	105,325
Total other pilotage costs	181,258	271,887	453,145
Pilot Boat and Dispatch Costs:			
Pilot boat expense	145,254	217,882	363,136
Dispatch expense	7,830	11,745	19,575
Payroll taxes	4,056	6,084	10,140
Total pilot and dispatch costs	157,140	235,711	392,851
Administrative Expenses:			
Legal	8,120	12,180	20,300
Office rent	26,275	39,413	65,688
Insurance	13,410	20,114	33,524

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2010	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total
Employee benefits	24,420	36,631	61,051
Payroll taxes	2,980	4,471	7,451
Other taxes	19,100	28,651	47,751
Depreciation/Auto leasing/Other	22,954	34,431	57,385
Interest	14,790	22,185	36,975
Dues and subscriptions	6,200	9,300	15,500
Utilities	12,138	18,208	30,346
Salaries	46,611	69,917	116,528
Accounting/Professional fees	14,067	21,100	35,167
Other	16,157	24,235	40,392
Total Administrative Expenses	227,223	340,835	568,058
Total Operating Expenses	565,622	848,432	1,414,054
Proposed Adjustments (independent CPA):			
Operating Expenses:			
Other Pilot Costs:			
Pilotage subsistence/Travel	(3,999)	(5,999)	(9,998)
Total other pilotage costs	(3,999)	(5,999)	(9,998)
Pilot boat and dispatch costs:			
Pilot boat expense	(767)	(1,150)	(1,917)
Total pilot boat and dispatch costs	(767)	(1,150)	(1,917)
Administrative Expenses:			
Legal	(209)	(314)	(523)
Office rent	(809)	(1,213)	(2,022)
Interest	(11,268)	(16,902)	(28,170)
Dues and subscriptions	(6,200)	(9,300)	(15,500)
Total Administrative Expenses	(18,486)	(27,729)	(46,215)
Total CPA Adjustments	(23,252)	(34,878)	(58,130)
Total Operating Expenses	542,369	813,554	1,355,924

Note: Numbers may not total due to rounding.

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported Expenses for 2010	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total
Operating Expenses:				
Other Pilot Costs:				
Pilot subsistence/Travel	$170,162	$81,836	$108,514	$360,512
License insurance	9,204	4,426	5,869	19,499
Payroll taxes	27,774	13,358	17,712	58,844
Other	630	303	402	1,335
Total other pilotage costs	207,770	99,923	132,497	440,190
Pilot Boat and Dispatch Expenses:				
Pilot boat costs	197,244	94,861	125,785	417,890
Dispatch expense	72,550	34,891	46,266	153,707
Payroll taxes	8,068	3,880	5,145	17,093
Total pilot boat and dispatch costs	277,862	133,632	177,196	588,690
Administrative Expenses:				
Legal	28,089	13,509	17,913	59,511
Office Rent	4,673	2,247	2,980	9,900
Insurance	6,581	3,165	4,197	13,943
Employee benefits	57,942	27,866	36,950	122,758

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported Expenses for 2010	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total
Payroll taxes	5,709	2,746	3,641	12,096
Other taxes	15,381	7,397	9,808	32,586
Depreciation/auto leasing	23,495	11,299	14,983	49,777
Interest	1,537	739	980	3,256
Dues and subscriptions	13,676	6,577	8,721	28,974
Utilities	13,223	6,359	8,432	28,014
Salaries	49,802	23,951	31,759	105,512
Accounting/professional fees	11,894	5,720	7,585	25,199
Other	5,574	2,681	3,555	11,810
Total administrative expenses	237,576	114,256	151,504	503,336
Total Operating Expenses	723,208	347,811	461,197	1,532,216
Proposed Adjustments (independent CPA):				
Other Pilot Costs:				
Payroll taxes	26,213	12,606	16,716	55,535
Total other pilotage costs	26,213	12,606	16,716	55,535
Pilot Boat and Dispatch Expenses:				
Dispatch costs	(2,170)	(1,044)	(1,384)	(4,598)
Total pilot boat and dispatch costs	(2,170)	(1,044)	(1,384)	(4,598)
Administrative Expenses:				
Legal	(1,454)	(699)	(927)	(3,080)
Dues and subscriptions	(13,676)	(6,577)	(8,721)	(28,974)
Other	(1,255)	(603)	(800)	(2,658)
Total administrative expenses	(16,385)	(7,879)	(10,448)	(34,712)
Total CPA Adjustments	7,658	3,683	4,884	16,225
Total Operating Expenses	730,866	351,494	466,081	1,548,441

Note: Numbers may not total due to rounding.

Step 1.C: Adjustment for Inflation or Deflation. In this sub-step we project rates of inflation or deflation for the succeeding navigation season. Because we used 2010 financial information, the "succeeding navigation season" for this ratemaking is 2011. We based our inflation adjustment of 3.2 percent on the 2011 change in the CPI for the Midwest Region of the United States, which can be found at: *http://www.bls.gov/xg_shells/ro5xg01.htm.* This adjustment appears in Tables 5 through 7.

TABLE 5—INFLATION ADJUSTMENT, DISTRICT ONE

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

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO

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

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO—Continued

Reported Expenses for 2010		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Inflation Adjustment	=	$17,356	=	$26,034	=	$43,390

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE

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

Step 1.D: Projection of Operating Expenses. The final sub-step of Step 1 is to project the operating expenses for each pilotage area, on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection. Based on comments and supporting material received for the 2012 Appendix A NPRM, we determined that foreseeable circumstances exist in District One.

Eight months of District One's pilot boat mortgage payments and boat insurance qualify as foreseeable circumstances. For District One, the projected operating expenses are based on the calculations from Sub-steps 1.A through 1.C and the aforementioned foreseeable circumstances. Table 8 shows these projections.

TABLE 8—PROJECTED OPERATING EXPENSES, DISTRICT ONE

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

Note: Numbers may not total due to rounding.

During the audit for the 2013 Appendix A rulemaking, the independent accountant informed us that District Two applied for and received a COBRA subsidy for the first and second quarter of 2010. The American Recovery and Reinvestment Act of 2009 provided for a temporary premium subsidy for COBRA continuation coverage. The amount of the COBRA insurance subsidy for the period 2010 was $60,460. Federal taxes of $18,400 are accounted for in Step 6 (Federal Tax Allowance). For District Two, the projected operating expenses are based on the calculations from Sub-steps 1.A through 1.C, the COBRA subsidy, and Federal taxes. Table 9 shows these projections.

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO

Reported Expenses for 2010		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Total Operating Expenses		$542,369		$813,554		$1,355,924
Inflation Adjustment 3.2%	+	17,356	+	26,034	+	43,390
Director's adjustment & foreseeable circumstances						
American Recovery and Reinvestment Act Subsidy	+	(24,184)	+	(36,276)	+	(60,460)
Federal taxes (accounted for in Step 6)	+	(7,360)	+	(11,040)	+	(18,400)
Total projected expenses for 2013 pilotage season	=	528,182	=	792,272	=	1,320,454

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

TABLE 10—PROJECTED OPERATING EXPENSES, DISTRICT THREE

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

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

Step 2.A: Determination of Target Rate of Compensation. Target pilot compensation for pilots in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Compensation is determined based on the most current union contracts and includes wages and benefits received by first mates. We calculate target pilot compensation for pilots on designated waters by multiplying the average first mates' wages by 150 percent and then adding the average first mates' benefits. In prior rulemakings, the AMOU shared the individual compensation components for first mates and the scheme for applying these components. We took each component and applied the scheme to determine a monthly value. We then multiplied this monthly value by 9 months, because the Great Lakes shipping season for pilotage lasts from around the end of March to around the end of December (approximately 9 months). We then created a table that combined all of the components to determine the target pilot compensation for a given year.

As we discussed in part V of this preamble, the AMOU contract changed after we published our August 2012 NPRM. The values stipulated by AMOU that we now use are aggregates. These aggregates include the daily wage rate, vacation pay, pension plan contributions, and medical plan contributions; these represent the components we previously calculated in separate tables using the scheme outlined in the contract. Using these aggregates eliminates the need to calculate each component separately and reduces the number of tables we need to demonstrate our calculations, but otherwise it does not affect how AMOU contract data is factored into our ratemaking methodology.

According to the information provided by the AMOU, new contracts will take effect August 1, 2013 and will expire July 31, 2016, and they set the following aggregate daily rates: in undesignated waters, $592.92 for Agreement A and $585.57 for Agreement B; in designated waters, $816.09 for Agreement A and $803.24 for Agreement B.

Because we are interested in annual compensation, we must convert these daily rates. In past contracts, the AMOU used monthly multipliers, and we then applied those monthly multipliers over the average 9-month length of the Great Lakes shipping season to determine annual compensation. The latest AMOU contracts no longer use monthly multipliers, but instead use a 270-day multiplier which reflects an average 30-day month, over the 9 months of the average shipping season. Table 11 shows our calculations using the 270-day multiplier.

TABLE 11—PROJECTED ANNUAL AGGREGATE RATE COMPONENTS

Aggregate Rate—Wages and Vacation, Pension, and Medical Benefits	
Pilots on Undesignated Waters	
Agreement A: $592.92 daily rate × 270 days	$160,088.40
Agreement B: $585.57 daily rate × 270 days	$158,103.90
Pilots on Designated Waters	
Agreement A: $816.09 daily rate × 270 days	$220,334.30
Agreement B: $803.24 daily rate × 270 days	$216,874.80

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

TABLE 12—SHIPPING TONNAGE APPORTIONED BY CONTRACT

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

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

TABLE 13—TONNAGE-WEIGHTED COMPENSATION

		Undesignated waters		Designated waters
Agreement A:				
Total wages and benefits		$160,088.40		$220,344.30
Percent tonnage	×	29.7238%	×	29.7238%
Total	=	$47,584	=	$65,495
Agreement B:				
Total wages and benefits		$158,104		$216,875
Percent tonnage	×	70.2762%	×	70.2762%
Total	=	$111,109	=	$152,411
Projected Target Rate of Compensation:				
Agreement A total weighted average wages and benefits		$47,584		$65,495
Agreement B total weighted average wages and benefits	+	$111,109	+	$152,411
Total	=	$158,694	=	$217,906

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

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

In our 2012 final rule, we determined that 38 pilots would be needed for ratemaking purposes. We have determined that 38 remains the proper number to use for ratemaking purposes in 2013. This includes five pilots in Area 2, where rounding up alone would result in only four pilots. For the same reasons we explained at length in the final rule for the 2008 ratemaking (74 FR 220 at 221–22 Jan. 5, 2009), which is available in the docket, we have determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 14 shows the bridge hours we project will be needed for each area and our calculations to determine the number of whole pilots needed for ratemaking purposes.

TABLE 14—NUMBER OF PILOTS NEEDED

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

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

TABLE 15—PROJECTION OF TARGET PILOT COMPENSATION BY AREA

Pilotage area	Pilots needed (total = 38)		Target rate of pilot compensation		Projected target pilot compensation
Area 1 (Designated waters)	6	×	$217,906	=	$1,307,436
Area 2 (Undesignated waters)	5	×	158,694	=	793,469
Area 4 (Undesignated waters)	4	×	158,694	=	634,775
Area 5 (Designated waters)	6	×	217,906	=	1,307,436
Area 6 (Undesignated waters)	7	×	158,694	=	1,110,856
Area 7 (Designated waters)	4	×	217,906	=	871,624
Area 8 (Undesignated waters)	6	×	158,694	=	952,163

Note: Numbers may not total due to rounding.

Step 3 and 3.A: Projection of Revenue. In this step, we project the revenue that would be received in 2013 if demand for pilotage services matches the bridge hours we projected in Table 14, and if 2012 pilotage rates were left unchanged. Table 16 shows this calculation.

TABLE 16—PROJECTION OF REVENUE BY AREA

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

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

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT ONE

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

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT ONE—Continued

		Area 1		Area 2
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		1,005,772		793.785
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds	=	1,005,772	=	793,785

TABLE 18—TOTAL SOURCES OF FUNDS, DISTRICT TWO

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

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT THREE

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

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

		Area 6		Area 7		Area 8
Total Assets:						
Total Recognized Assets		921,776		443,312		587,828
Total Non-Recognized Assets	+	0	+	0	+	0
Total Assets	=	921,776	=	443,312	=	587,828
Recognized Sources of Funds:						
Total Stockholder Equity		921,776		443,312		587,828
Long-Term Debt	+	0	+	0	+	0
Current Notes Payable	+	0	+	0	+	0
Advances from Affiliated Companies	+	0	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0	+	0
Total Recognized Sources	=	921,776	=	443,321	=	587,828
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		921,776		443,321		587,828
Total Non-Recognized Sources	+	0	+	0	+	0
Total Sources of Funds	=	921,776	=	443,321	=	587,828

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

TABLE 20—INVESTMENT BASE BY AREA AND DISTRICT

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

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

Step 5: Determination of Target Rate of Return. We determine a market-equivalent return on investment (ROI) that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the preceding year's average annual rate of return for new issues of high-grade corporate securities. For 2011, the preceding year, the allowed ROI was a little more than 4.64 percent, based on the average rate of return that year on Moody's AAA corporate bonds, which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

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

TABLE 21—PROJECTED ROI, AREAS IN DISTRICT ONE

		Area 1		Area 2
Revenue (from Step 3)	+	$2,438,897	+	$1,596,067
Operating Expenses (from Step 1)	−	598,805	−	472,540
Pilot Compensation (from Step 2)	−	1,307,436	−	793,469
Operating Profit/(Loss)	=	532,656	=	330,059
Interest Expense (from audits)	−	12,576	−	9,926
Earnings Before Tax	=	520,080	=	320,133
Federal Tax Allowance	−	0	−	0
Net Income	=	520,080	=	320,133
Return Element (Net Income + Interest)		532,656		330,059
Investment Base (from Step 4)	÷	987,354	÷	779,248
Projected Return on Investment	=	0.54	=	0.42

Note: Numbers may not total due to rounding.

TABLE 22—PROJECTED ROI, AREAS IN DISTRICT TWO

		Area 4		Area 5
Revenue (from Step 3)	+	$1,284,712	+	$2,571,969
Operating Expenses (from Step 1)	−	528,181	−	792,272
Pilot Compensation (from Step 2)	−	634,775	−	1,307,436
Operating Profit/(Loss)	=	121,756	=	472,261
Interest Expense (from audits)	−	3,522	−	5,283
Earnings Before Tax	=	118,234	=	466,978
Federal Tax Allowance	−	0	−	0
Net Income	=	118,234	=	466,978
Return Element (Net Income + Interest)		121,756		472,261
Investment Base (from Step 4)	÷	318,543	÷	719,056
Projected Return on Investment	=	0.38	=	0.66

Note: Numbers may not total due to rounding.

TABLE 23—PROJECTED ROI, AREAS IN DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue (from Step 3)	+	$2,187,375	+	$1,547,878	+	$1,754,120
Operating Expenses (from Step 1)	−	754,254	−	362,742	−	480,996
Pilot Compensation (from Step 2)	−	1,110,856	−	871,624	−	952,163
Operating Profit/(Loss)	=	322,264	=	313,512	=	320,962
Interest Expense (from audits)	−	1,537	−	739	−	980
Earnings Before Tax	=	320,727	=	312,773	=	319,982
Federal Tax Allowance	−	0	−	0	−	0
Net Income	=	320,727	=	312,773	=	319,982
Return Element (Net Income + Interest)		322,264		313,512		320,962
Investment Base (from Step 4)	÷	921,776	÷	443,312	÷	587,828
Projected Return on Investment	=	0.35	=	0.71	=	0.55

Note: Numbers may not total due to rounding.

The second sub-step required for Step 6 compares the results of Tables 21 through 23 with the target ROI (approximately 4.64 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is necessary. Table 24 shows this comparison for each area.

TABLE 24—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA [1]

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast Shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected return on investment	0.539	0.424	0.382	0.657	0.350	0.707	0.546

TABLE 24—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA [1]—Continued

	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
Target return on investment	0.046	0.046	0.046	0.046	0.046	0.046	0.046
Difference in return on investment	0.493	0.377	0.336	0.610	0.303	0.661	0.500

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

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

TABLE 25—REVENUE NEEDED TO RECOVER TARGET ROI, BY AREA

Pilotage area	Operating Expenses (Step 1)		Target Pilot Compensation (Step 2)		Investment Base (Step 4) × 4.64 (Target ROI Step 5)		Federal Tax Allowance		Revenue Needed
Area 1 (Designated waters)	$598,805	+	$1,307,436	+	$45,813	+	$0	=	$1,952,054
Area 2 (Undesignated waters)	472,540	+	793,469	+	36,157	+	0	=	1,302,166
Area 4 (Undesignated waters)	528,181	+	634,775	+	14,780	+	7,360	=	1,185,096
Area 5 (Designated waters)	792,272	+	1,307,436	+	33,364	+	11,040	=	2,144,112
Area 6 (Undesignated waters)	754,254	+	1,110,856	+	42,770	+	0	=	1,907,881
Area 7 (Designated waters)	362,742	+	871,624	+	20,570	+	0	=	1,254,936
Area 8 (Undesignated waters)	480,996	+	952,163	+	27,275	+	0	=	1,460,433
Total	3,989,788	+	6,977,760	+	220,730	+	18,400	=	11,206,678

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

TABLE 26—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT ONE

		Area 1		Area 2
Revenue Needed	+	$1,952,054	+	$1,302,166
Operating Expenses (from Step 1)	−	598,805	−	472,540
Pilot Compensation (from Step 2)	−	1,307,436	−	793,469
Operating Profit/(Loss)	=	45,813	=	36,157
Interest Expense (from audits)	−	12,576	−	9,926
Earnings Before Tax	=	33,237	=	26,231
Federal Tax Allowance	−	0	−	0
Net Income	=	33,237	=	26,231
Return Element (Net Income + Interest)		45,813		36,157
Investment Base (from Step 4)	÷	987,354	÷	779,248
Return on Investment	=	0.0464	=	0.0464

TABLE 27—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO

		Area 4		Area 5
Revenue Needed	+	$1,185,096	+	$2,144,112
Operating Expenses (from Step 1)	−	528,181	−	792,272
Pilot Compensation (from Step 2)	−	634,775	−	1,307,436
Operating Profit/(Loss)	=	22,140	=	44,404
Interest Expense (from audits)	−	3,522	−	5,283
Earnings Before Tax	=	18,616	=	39,115
Federal Tax Allowance	−	7,360	−	11,040
Net Income	=	11,258	=	28,081
Return Element (Net Income + Interest)		14,780		33,364
Investment Base (from Step 4)	÷	318,543	÷	719,056

TABLE 27—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO—Continued

		Area 4		Area 5
Return on Investment	=	0.0464	=	0.0464

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

		Area 6		Area 7		Area 8
Revenue Needed	+	$1,907,881	+	$1,254,936	+	$1,460,433
Operating Expenses (from Step 1)	−	754,254	−	362,742	−	480,996
Pilot Compensation (from Step 2)	−	1,110,856	−	871,624	−	952,163
Operating Profit/(Loss)	=	42,770	=	20,570	=	27,275
Interest Expense (from audits)	−	1,537	−	739	−	980
Earnings Before Tax	=	41,233	=	19,831	=	26,295
Federal Tax Allowance	−	0	−	0	−	0
Net Income	=	41,233	=	19,831	=	26,295
Return Element (Net Income + Interest)		42,770		20,570		27,275
Investment Base (from Step 4)	÷	921,776	÷	443,312	÷	587,828
Return on Investment	=	0.0464	=	0.0464	=	0.0464

Step 7: Adjustment of Pilotage Rates. This step calls for us to divide the Step 6 revenue needed (Table 25) by the Step 3 revenue projection (Table 16), to give us a rate multiplier for each area. Tables 29 through 31 show these calculations.

TABLE 29—RATE MULTIPLIER, AREAS IN DISTRICT ONE

Ratemaking projections		Area 1 St. Lawrence River		Area 2 Lake Ontario
Revenue Needed (from Step 6)		$1,952,046		$1,302,159
Revenue (from Step 3)	÷	2,438,897	÷	1,596,067
Rate Multiplier	=	0.8004	=	0.8159

TABLE 30—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)		$1,185,094		$2,144,106
Revenue (from Step 3)	÷	1,284,712	÷	2,571,969
Rate Multiplier	=	0.9225	=	0.8336

TABLE 31—RATE MULTIPLIER, AREAS IN DISTRICT THREE

Ratemaking projections		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior
Revenue Needed (from Step 6)		$1,907,873		$1,254,932		$1,460,429
Revenue (from Step 3)	÷	2,187,375	÷	1,547,878	÷	1,754,120
Rate Multiplier	=	0.8722	=	0.8107	=	0.8326

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 16.25 percent in all areas.

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

TABLE 32—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428

Ratemaking projections		
Total Revenue Needed (from Step 6)		$11,206,638.64
Total revenue (from Step 3)	÷	$13,381,017.91

TABLE 32—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428—Continued

Ratemaking projections		
Rate Multiplier	=	0.838

Without further action, the existing rates we established in our 2012 final rule would then be multiplied by the rate multipliers from Tables 29 through 31 to calculate the area by area rate changes for 2013. The resulting 2013 rates, on average, would then be decreased almost 16 percent from the 2012 rates, instead of increasing almost 2 percent as we proposed in our August 2012 NPRM. We decline to impose that decrease; but instead, we are relying on the discretionary authority we have under Step 7 to further adjust rates. Table 33 compares the impact, area by area, that an average decrease of almost 16 percent would have, relative to the impact each area will actually experience as a result of this final rule.

TABLE 33—IMPACT OF EXERCISING STEP 7 DISCRETION

Area	Percent change without exercising Step 7 discretion	Percent change with exercise of Step 7 discretion
Area 1 (Designated waters)	−19.96	−1.41
Area 2 (Undesignated waters)	−18.41	−1.69
Area 4 (Undesignated waters)	−7.75	8.87
Area 5 (Designated waters)	−16.64	0.95
Area 6 (Undesignated waters)	−12.78	4.31
Area 7 (Designated waters)	−18.93	0.56
Area 8 (Undesignated waters)	−16.74	1.52

Our discretionary authority under Step 7 must be "based on requirements of the Memorandum of Arrangements between the United States and Canada, and other supportable circumstances that may be appropriate." The Memorandum of Arrangements calls for comparable U.S. and Canadian rates, and the rates would not be comparable if U.S. rates decrease by 16 percent, while Canadian rates for 2013 increase by 2.5 percent.[3] "Other supportable circumstances" we have for exercising our discretion include recent Executive Order 13609, which calls on Federal agencies to eliminate "unnecessary differences" between U.S. and foreign regulations (77 FR 26413, sec. 1), and the possibility that a 16 percent rate decrease would jeopardize the ability of the three pilotage associations to provide safe, dependable service. (In the case of one association, our examination of that association's financial data suggests it could not survive such a rate decrease.)

The following tables reflect the rate adjustments we proposed in our August 2012 NPRM. We are finalizing the values from the NPRM in this rulemaking.

Tables 34 through 36 show these calculations.

TABLE 34—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT ONE

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

Note: Numbers may not total due to rounding.

[3] The Canadian Great Lakes Pilotage Authority (GLPA) originally recommended a 2013 rate increase of 4 percent based on GLPA's analysis of the revenue needed to cover the costs of providing pilotage service for GLPA clients, but reduced that figure to 2.5 percent based in large part on our NPRM's proposed average 1.87 percent increase.

TABLE 35—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

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

Note: Numbers may not total due to rounding.

TABLE 36—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE

	2012 Rate		Rate multiplier (2013 APP A NPRM)		Adjusted rate for 2013
Area 6 Lakes Huron and Michigan:					
6-Hour Period	$662	×	1.043	=	$691
Docking or undocking	$629	×	1.043	=	$656
Area 7 St. Mary's River between any point on or in:					
Gros Cap & De Tour	$2,568	×	1.006	=	$2,583
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	$2,568	×	1.006	=	$2,583
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap	$967	×	1.006	=	$973
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	$2,153	×	1.006	=	$2,165
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	$967	×	1.006	=	$973
Sault Ste. Marie, MI & De Tour	$2,153	×	1.006	=	$2,165
Sault Ste. Marie, MI & Gros Cap	$967	×	1.006	=	$973
Harbor movage	$967	×	1.006	=	$973
Area 8 Lake Superior:					
6-Hour period	$577	×	1.015	=	$586
Docking or undocking	$549	×	1.015	=	$557

Note: Numbers may not total due to rounding.

VII. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders (E.O.) 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. Accordingly, the final rule has not been reviewed by the Office of Management and Budget (OMB). Step 7 allows for discretion when making the rate. The Memorandum of Arrangements between the United States and Canada calls for comparable rates. As such, we maintain the rate increase presented in the NPRM, resulting in an estimated cost to shippers of $148,000.

A regulatory assessment follows.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See sections 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 of this rule, we are adjusting the pilotage rates for the 2013 shipping season to generate sufficient revenue to cover allowable expenses, and target pilot compensation and returns on investment. The rate adjustments in this final rule will lead to a cost in all three districts with an estimated cost to shippers of approximately $148,000 across all three districts.

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

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

Owners and operators of other vessels that are not affected by this rule, such as recreational boats and vessels only operating within the Great Lakes system may elect to purchase pilotage services. However, this election is voluntary and does not affect the Coast Guard's calculation of the rate and is not a part of our estimated national cost to shippers. Coast Guard sampling of pilot data suggests there are very few U.S. domestic vessels, without registry and operating only in the Great Lakes that voluntarily purchase pilotage services.

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

Historically, the impact of the rate adjustment to shippers is estimated from the District pilotage revenues. These revenues represent the direct and indirect costs that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage. For this rule, we base our rate on pilotage revenues as reported for the NPRM, as discussed in step 7, despite new data provided by AMOU.

We estimate the additional impact (costs or savings) 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 2012 rate adjustment and the total projected revenue needed to cover costs in 2013 as set forth in the NPRM. Table 37 details additional costs or savings by area and district.

TABLE 37—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE RULE BY AREA AND DISTRICT ($U.S.; NON-DISCOUNTED)

	Projected revenue needed in 2012 *	Projected revenue needed in 2013 **	Additional costs or savings of this rule
Area 1	$2,308,357	$2,404,424	$96,067
Area 2	1,614,791	1,569,160	(45,631)
Total, District One	3,923,148	3,973,583	50,435
Area 4	1,310,549	1,398,694	88,145
Area 5	2,600,490	2,596,484	(4,006)
Total, District Two	3,911,039	3,995,178	84,139
Area 6	2,227,555	2,281,673	54,118
Area 7	1,565,906	1,556,517	(9,389)
Area 8	1,811,863	1,780,829	(31,034)
Total, District Three	5,605,324	5,619,020	13,696

* These 2012 estimates are detailed in Table 18 of the 2012 final rule (76 FR 6351).
** These 2013 estimates are detailed in Table 27 of the NPRM for this rulemaking.
Some values may not total due to rounding.
''Additional Revenue or Cost of this Rulemaking'' = ''Revenue needed in 2012'' minus ''Revenue needed in 2011.''

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

The impact of the rate adjustment in this rule to shippers varies by area and district. The rate adjustments lead to a cost in all three districts, with affected shippers operating in District One, District Two, and District Three experiencing costs of $50,435, $84,139, and $13,696, respectively. To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less depending on the distance and port arrivals of their vessels' trips. As Table 37 indicates, shippers operating in all Districts would experience an increased annual cost due to this rule. The overall impact of the rule would be a cost to shippers of approximately $148,000 across all three districts.

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

Alternatively, if we were to impose the new rates based on the new contract data from AMOU, there would be a nearly 16 percent decrease in rates across the system. This would have a dramatically different effect on industry, moving from a proposed cost to shippers of approximately $148,000 to a cost savings of approximately $1.7 million. Table 38 shows the difference in projected 2012 expenses as compared to projected 2013 expenses based on the new AMOU contract information.

TABLE 38—ALTERNATIVE RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE RULE BY AREA AND DISTRICT ($U.S.; NON-DISCOUNTED)

	Total projected expenses in 2012	Proposed rate change	Total projected expenses in 2013	Additional revenue or cost of this rulemaking
Area 1	$2,308,357	0.9465	$2,438,897	$130,540
Area 2	1,614,791	1.0117	1,596,067	(18,724)
Total, District One	3,923,148	1.6086	2,438,897	(1,484,251)
Area 4	1,310,549	1.0201	1,284,712	(25,837)
Area 5	2,600,490	1.0111	2,571,969	(28,521)
Total, District Two	3,911,039	1.0141	3,856,681	(54,358)
Area 6	2,227,555	1.0184	2,187,375	(40,180)
Area 7	1,565,906	1.0116	1,547,878	(18,028)
Area 8	1,811,863	1.0329	1,754,120	(57,743)
Total, District Three	5,605,324	1.0211	5,489,373	(115,951)
All Three Districts	13,439,511	1.1404	11,784,951	(1,654,560)

We reject this alternative for the reasons laid out in our discussion of Step 7 in part VI of this preamble.

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 people.

We expect entities affected by this rule will 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 rule, we reviewed recent company size and ownership data from 2008–2010 Coast Guard MISLE data and business revenue and size data provided by publicly available sources such as MANTA and Reference USA. We found that large, mostly foreign-owned, shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by this rule that receive revenue from pilotage services. These are the three pilots' associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees; they have approximately 65 total employees combined. We expect no adverse impact to these entities from this rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots. Additionally, while we are not required to conduct a full Regulatory Flexibility Analysis for this action, we have indicated some potential adverse impacts from alternative action in our discussion of the analysis performed under Step 7.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will 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 (Pub. L. 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 consult Mr. Todd Haviland, Director, Great Lake Pilotage, Office of Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1909. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

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

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. 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, preemption is not an issue under Executive Order 13132.

Additionally, President Barack Obama's memorandum of May 20, 2009, titled ''Preemption,'' states that ''preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and with a sufficient legal basis for preemption.'' To that end, when a department or agency intends to preempt State law, it should do so only if justified under legal principles governing preemption, including those outlined in Executive Order 13132, and it should also include preemption provisions in the codified regulation. As currently stated in 46 CFR 401.120, states, municipalities, and other local authorities are prohibited from requiring ''the use of pilots or [regulating] any aspect of pilotage in any of the waters specified in the Act.'' Therefore, this regulation complies with the requirements of the memorandum.

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 would 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 may 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370h), 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. This rule adjusts rates in accordance with applicable statutory and regulatory mandates and is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction, which includes regulations that are editorial or procedural. An environmental analysis checklist and a categorical exclusion determination are 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 § 401.405, revise paragraphs (a) and (b), including the footnote to Table (a), to read as follows:

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$18.75 per kilometer or $33.19 per mile [1]
Each Lock Transited	$416 [1]
Harbor Movage	1,361 [1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $908, and the maximum basic rate for a through trip is $3,984.

(b) Area 2 (Undesignated Waters):

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

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

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

* * * * *

(a) Area 4 (Undesignated Waters):

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

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,339	$1,382	$3,037	$2,339	N/A
Port Huron Change Point	[1] 4,074	[1] 4,719	3,060	2,381	1,693
St. Clair River	[1] 4,074	N/A	3,060	3,060	1,382
Detroit or Windsor or the Detroit River	2,339	3,037	1,382	N/A	3,060
Detroit Pilot Boat	1,693	2,339	N/A	N/A	3,060

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

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

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

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
6-Hour Period	$691
Docking or Undocking	656

(b) Area 7 (Designated Waters):

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

(c) Area 8 (Undesignated Waters):

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

§ 401.420 [Amended]

■ 5. Amend § 401.420 as follows:
■ a. In paragraph (a), remove the text ''$124'' and add, in its place, the text ''$126''; and remove the text ''$1,942'' and add, in its place, the text ''$1,972'';
■ b. In paragraph (b), remove the text ''$124'' and add, in its place, the text ''$126''; and remove the text ''$1,942'' and add, in its place, the text ''$1,972''; and
■ c. In paragraph (c)(1), remove the text ''$733'' and add, in its place, the text ''$744''; and in paragraph (c)(3), remove the text ''$124'' and add, in its place, the text ''$126'', and remove the text ''$1,942'' and add, in its place, the text ''$1,972''.

§ 401.428 [Amended]

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

Dated: February 20, 2013.

Dana A. Goward,

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

[FR Doc. 2013–04321 Filed 2–27–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 201, 204, 215, 225, 227, 242, 245, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: *Effective* February 28, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Corrects address of the Director, DAR Council at 201.201–1(d)(i);
2. Corrects 204.203(b) for consistency with FAR terminology;
3. Corrects terminology at 204.7106(b)(2)(ii)(D) relating to contract line items;
4. Corrects text at 215.403–1(c)(1)(A)(*1*);
5. Updates DFARS text at 215.404–71–2(e)(l)(i) by adding the word ''data'' for consistency with the FAR;
6. Corrects typographical error at 215.408(2);
7. Removes obsolete language from 225.7006–3(b) and 225.7008(b).
8. Corrects typographical error at 227.7103–3(c);
9. Revises 242.302(a)(S–72);
10. Revises 242.7302 to call attention to guidance at PGI ;
11. Corrects typographical error at 245.103–72;
12. Corrects clause date and link at 252.204–7004;
13. Corrects links at 252.211–7007(a), 252.211–7007(d)(6), and 252.211–7007(g)(1);
14. Corrects clause dates at 252.212–7001(b)(2), 252.212–7001(b)(4), and at 252.212–7001(b)(26); and
15. Corrects typographical error at 252.215–7000 and clarifies clause terminology relating to Subcontractor Certified Cost or Pricing Data.

List of Subjects in 48 CFR Parts 201, 204, 215, 225, 227, 242, 245 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 201, 204, 215, 225, 227, 242, 245 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 201, 204, 215, 225, 227, 242, 245 and 252 continue to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.201–1 [Amended]

■ 2. Section 201.201–1 paragraph (d)(i) introductory text is amended by removing ''OUSD(AT&L), 3062 Defense Pentagon, Washington, DC 20301–3062;'' and adding ''OUSD(AT&L), 3060 Defense Pentagon, Washington, DC 20301–3060;'' in its place.

PART 204—ADMINISTRATIVE MATTERS

204.203 [Amended]

■ 3. Section 204.203 is amended in paragraph (b) by removing the word ''clause'' and adding the word ''provision'' in its place.

204.7106 [Amended]

■ 4. Section 204.7106 is amended in paragraph (b)(2)(ii)(D) by removing ''original contract or exhibit line or subline item'' and adding ''original contract line item or subline item or exhibit line item'' in its place.

PART 215—CONTRACTING BY NEGOTIATION

215.403–1 [Amended]

■ 5. Section 215.403–1 is amended in paragraph (c)(1)(A)(*1*) by removing the word ''information'' and adding the word ''data'' in its place.

215.404–71–2 [Amended]

■ 6. Section 215.404–71–2 is amended in paragraph (e)(1)(i) by removing ''contracting office information and reviews'' and adding ''contracting office data, information and reviews'' in its place.

215.408 [Amended]

■ 7. Section 215.408 is amended in paragraph (2) by removing the word ''award'' and adding the word ''awarded'' in its place.

PART 225–FOREIGN ACQUISITION

■ 8. Section 225.7006–3(b) is revised to read as follows:

225.7006–3 Waiver.

* * * * *

(b) The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restriction for air circuit breakers manufactured in the United Kingdom. (See 225.7008.)

■ 9. Section 225–7008(b) is revised to read as follows:

225.7008 Waiver of restrictions of 10 U.S.C. 2534.

* * * * *

(b) In accordance with the provisions of paragraphs (a)(1)(i) through (iii) of this section, the USD(AT&L) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels (see 225.7006).