DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401 and 404

[USCG–2018–0665]

RIN 1625–AC49

Great Lakes Pilotage Rates—2019 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with the Great Lakes Pilotage Act of 1960, the Coast Guard is proposing new base pilotage rates and surcharges for the 2019 shipping season. This rule would adjust the pilotage rates to account for anticipated traffic, an increase in the number of pilots, anticipated inflation, and surcharges for applicant pilots. The result is an increase in pilotage rates, due to adjustment for inflation and the addition of two pilots.

DATES: Comments and related material must be received by the Coast Guard on or before November 16, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0665 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions. Documents mentioned in this proposed rule, and all public comments, are available in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice.*

We do not plan to hold a public meeting, but we will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

APA American Pilots Association
BLS Bureau of Labor Statistics
CAD Canadian dollars
CFR Code of Federal Regulations
CPA Certified public accountant
DHS Department of Homeland Security
FOMC Federal Open Market Committee
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canadian)
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
NTSB National Transportation Safety Board
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
RA Regulatory analysis
SBA Small Business Administration
§ Section symbol
SLSMC Saint Lawrence Seaway Management Corporation
U.S.C. United States Code
USD United States dollars

III. Executive Summary

Pursuant to the Great Lakes Pilotage Act of 1960 (''the Act''),[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes—including setting the rates for pilotage services and adjusting them on an annual basis. The rates, which currently range from $271 to $653 per pilot hour (depending on the specific area where pilotage service is provided), are paid by shippers to pilot associations. The three pilot associations, which are the exclusive U.S. source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate working pilots, and train new pilots. We use a ratemaking methodology that we have developed since 2016 in accordance with our statutory requirements and regulations. Our ratemaking methodology calculates the revenue needed for each pilotage association (including operating expenses, compensation, and infrastructure needs), and then divides that amount by the expected shipping traffic over the course of the year to produce an hourly rate. This process is currently effected through a 10-step methodology and supplemented with surcharges, which are explained in detail in this notice of proposed rulemaking (NPRM).

In this NPRM, we are proposing new pilotage rates for 2019 based on the existing methodology. As part of our annual review, we are proposing in this NPRM new rates for the 2019 shipping season. Based on the ratemaking model discussed in this NPRM, we are proposing the rates shown in table 1. The result is an increase in rates, due to

[1] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

adjustment for inflation and the addition of two pilots.

TABLE 1—CURRENT AND PROPOSED PILOTAGE RATES ON THE GREAT LAKES

Area	Name	Final 2018 pilotage rate	Proposed 2019 pilotage rate
District One: Designated	St. Lawrence River	$653	$698
District One: Undesignated	Lake Ontario	435	492
District Two: Undesignated	Lake Erie	497	530
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	593	632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	271	304
District Three: Designated	St. Mary's River	600	602

This proposed rule is not economically significant under Executive Order 12866. This proposed rule would impact 51 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 256 oceangoing vessels that transit the Great Lakes annually. The estimated overall annual regulatory economic impact of this rate change is a net increase of $2,066,143 in payments made by shippers from the 2018 shipping season. Because we must review, and, if necessary, adjust rates each year, we analyze these as single year costs and do not annualize them over 10 years. This rule does not affect the Coast Guard's budget or increase Federal spending. Section VIII of this preamble provides the regulatory impact analyses of this proposed rule.

IV. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[2] which requires U.S. vessels operating ''on register'' and foreign vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[3] For the U.S. registered Great Lakes pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.''[4] The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. The Act requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[5]

The purpose of this NPRM is to propose new pilotage rates and surcharges for the 2019 shipping season. The Coast Guard believes that the new rates would promote pilot retention, ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to upgrade and maintain infrastructure.

V. Background

Pursuant to the Great Lakes Pilotage Act of 1960, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority, regulates shipping practices and rates on the Great Lakes. Under the Coast Guard regulations, all vessels engaged in foreign trade (often referred to as ''salties'') are required to engage U.S. or Canadian pilots during their transit through the regulated waters.[6] United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[7] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services.

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's Director of the Great Lakes Pilotage (''the Director'') to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilotage Association provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilotage Association provides pilotage services in District Three, which includes all U.S. waters of the St. Mary's River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into ''designated'' and ''undesignated'' areas. Designated areas are classified as such by Presidential Proclamation[8] to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Undesignated areas, on the other hand, are open bodies of water, and thus are not subject to the same pilotage requirements. While working in those undesignated areas, pilots must ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.''[9] For pilotage purposes, rates in designated areas are significantly higher than those in undesignated areas for these reasons.

[2] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

[3] 46 U.S.C. 9302(a)(1).

[4] 46 U.S.C. 9303(f).

[5] Department of Homeland Security (DHS) Delegation No. 0170.1, para. II (92.f).

[6] See 46 CFR part 401.

[7] 46 U.S.C. 9302(f). A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[8] Presidential Proclamation 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960,* December 22, 1960.

[9] 46 U.S.C. 9302(a)(1)(B).

TABLE 2—AREAS OF THE GREAT LAKES AND SAINT LAWRENCE SEAWAY

District	Pilotage association	Designation	Area No.[10]	Area name[11]
One	Saint Lawrence Seaway Pilotage Association.	Designated	1	St. Lawrence River.
		Undesignated	2	Lake Ontario.
Two	Lake Pilotage Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI.
		Undesignated	4	Lake Erie.
Three	Western Great Lakes Pilotage Association.	Designated	7	St. Mary's River.
		Undesignated	6	Lakes Huron and Michigan.
		Undesignated	8	Lake Superior.

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot association is responsible for funding its own operating expenses, maintaining infrastructure, acquiring and implementing technological advances, training personnel/partners and pilot compensation. We developed a 10-step ratemaking methodology to derive a pilotage rate that covers these expenses based on the estimated amount of traffic. In short, the methodology is designed to measure how much revenue each pilotage association will need to cover expenses and provide competitive compensation to working pilots. The Coast Guard then divides that amount by the historical average traffic transiting through the district. We recognize that in years where traffic is above average, pilot associations will take in more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours with adequate rest between assignments to ensure retention of highly-trained personnel.

Over the past 3 years, the Coast Guard has made adjustments to the Great Lakes pilotage ratemaking methodology. In 2016, we made significant changes to the methodology, moving to an hourly billing rate for pilotage services and changing the compensation benchmark to a more transparent model. In 2017, we added additional steps to the ratemaking methodology, including new steps that accurately account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 of this preamble). In 2018, we revised the methodology by which we develop the compensation benchmark, based upon the rate of U.S. mariners, rather than Canadian registered pilots. The 2018 methodology, which was finalized in the June 5, 2018 final rule (83 FR 26162) and is the current methodology, is designed to accurately capture all of the costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately and accurately compensates pilots and covers expenses. The current methodology is summarized in the section below.

Summary of Ratemaking Methodology

As stated above, the ratemaking methodology, currently outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate (determined separately for each of the areas administered by the Coast Guard).

In Step 1, ''Recognize previous operating expenses,'' (§ 404.101) the Director reviews audited operating expenses from each of the three pilotage associations. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. So in calculating the 2019 rates in this proposal, we are beginning with the audited expenses from fiscal year 2016.

While each pilotage association operates in an entire district, the Coast Guard tries to determine costs by area. Thus, with regard to operating expenses, we allocate certain operating expenses to undesignated areas, and certain expenses to designated areas. In some cases (*e.g.,* insurance for applicant pilots who operate in undesignated areas only), we can allocate the costs based on where they are actually accrued. In other situations (*e.g.,* general legal expenses), expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecasted from the respective portions of the district.

In Step 2, ''Project operating expenses, adjusting for inflation or deflation,'' (§ 404.102) the Director develops the 2018 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors used are from the Bureau of Labor Statistics' Consumer Price Index for the Midwest Region, or if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

In Step 3, ''Estimate number of working pilots,'' (§ 404.103) the Director calculates how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 401.220, paragraphs (a)(1) through (a)(3), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director of the Coast Guard Great Lakes Pilotage Office in approving an appropriate number of credentials for pilots.

For the purpose of the ratemaking calculation, we determine the number of working pilots provided by the pilotage associations (see § 404.103) which is what we use to determine how many pilots need to be compensated via the pilotage fees collected.

In Step 4, ''Determine target pilot compensation benchmark,'' (§ 404.104) the Director determines the revenue needed for pilot compensation in each area and district. This step contains two processes. In the first process, we calculate the total compensation for each pilot using a ''compensation benchmark.'' Next, we multiply the individual pilot compensation by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

[10] Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the United States pilotage rate structure.

[11] The areas are listed by name in the Code of Federal Regulations, see 46 CFR 401.405.

Because pilots are paid by the associations, but the costs of pilotage is divided up by area for accounting purposes, we assign a certain number of pilots for the designated areas and a certain number of pilots for the undesignated areas for purposes of determining the revenues needed for each area. To make the determination of how many pilots to assign, we use the staffing model designed to determine the total number of pilots, described in Step 3, above.

In the second process of Step 4, set forth in § 404.104(c), the Director determines the total compensation figure for each District. To do this, the Director multiplies the compensation benchmark by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

In Step 5, ''Project working capital fund,'' (§ 404.105) the Director calculates a value that is added to pay for needed capital improvements. This value is calculated by adding the total operating expenses (derived in Step 2) and the total pilot compensation (derived in Step 4), and multiply that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the ''working capital fund'' for each area and district.

In Step 6, ''Project needed revenue,'' (§ 404.106) the Director simply adds up the totals produced by the preceding steps. For each area and district, we add the projected operating expense (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''revenue needed.''

In Step 7, ''Calculate initial base rates,'' (§ 404.107) the Director calculates an hourly pilotage rate to cover the revenue needed calculated in Step 6. This step consists of first calculating the 10-year traffic average for each area. Next, we divide the revenue needed in each area (calculated in Step 6) by the 10-year traffic average to produce an initial base rate.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). As this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services.

In Step 8, ''Calculate average weighting factors by area,'' (§ 404.108) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates,'' (§ 404.109) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 10, ''Review and finalize rates,'' (§ 404.110) often referred to informally as ''director's discretion,'' the Director reviews the revised base rates (from Step 9) to ensure that they meet the goals set forth in the Act and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating pilots fairly, who are trained and rested; and providing appropriate profit for improvements. Because it is our goal to be as transparent as possible in our ratemaking procedure, we use this step sparingly to adjust rates.

Finally, after the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. Currently, we use surcharges to pay for the training of new pilots, rather than incorporating training costs into the overall ''revenue needed'' that is used in the calculation of the base rates. In recent years, we have allocated $150,000 per applicant pilot to be collected via surcharges. This amount is calculated as a percentage of total revenue for each district, and that percentage is applied to each bill. When the total amount of the surcharge has been collected, the pilot associations are prohibited from collecting further surcharges. Thus, in years where traffic is heavier than expected, shippers early in the season could pay more than shippers employing pilots later in the season, after the surcharge cap has been met.

VI. Discussion of Proposed Methodological and Other Changes

For 2019, the Coast Guard is not proposing any new methodological changes to the ratemaking model. We believe that the revised methodology laid out in the 2018 Annual Review will produce rates for the 2019 shipping season that will ensure safe and reliable pilotage services are available on the Great Lakes.

In previous years, several commenters have raised issues regarding the working capital fund. While the Coast Guard is not proposing specific changes in this NPRM (for example, in the text of part 401), we note that we are working with stakeholders to develop the necessary policy framework. These include measures relating to financial segregation of working capital fund, proper disbursement, and accounting, to ensure these monies are appropriately accounted for and utilized. This issue was an agenda item for the September 2018 Great Lakes Pilotage Advisory Committee Meeting. We also invite interested parties to provide their input and recommendations on the issue. We seek to ensure that the working capital fund is an appropriate vehicle to pay for needed capital expenses.

We are also proposing to correct a typographical error in the regulatory text of section 104. Currently, § 404.104(c) contains a reference to § 404.103(d), which before the publication of the 2018 final rule (83 FR 26162), contained the calculation for the estimated number of pilots. The 2018 final rule amended section 103 so that the calculation is now located in § 404.103, not 404.103(d), and so we propose to correct the reference in section 104 to point to the correct section.

VII. Discussion of Proposed Rate Adjustments

In this NPRM, based on the current methodology described in the previous section, we are proposing new pilotage rates for 2019. This section discusses the proposed rate changes using the ratemaking steps provided in 46 CFR part 404. We will detail each step of the ratemaking procedure to show how we arrived at the proposed new rates.

We propose to conduct the 2019 ratemaking as an ''interim year,'' rather than a full ratemaking, such as was conducted in 2018. Thus, for this purpose, the Coast Guard proposes to adjust the compensation benchmark pursuant to § 404.104(b) rather than § 404.104(a).

A. Step 1: Recognition of Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2016 expenses and revenues.[12] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, for example, costs are applied to the undesignated or designated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs that accrued to the pilot associations generally, for example, insurance, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for the three districts are laid out in tables 3 through 5.

As noted above, in 2016, the Coast Guard began authorizing surcharges to cover the training costs of applicant pilots. The surcharges were intended to reimburse pilot associations for training applicants in a more timely fashion than if those costs were listed as operating expenses, which would have required three years to reimburse. The rationale for using surcharges to cover these expenses, rather than including the costs as operating expenses, was so that retiring pilots would not have to cover the costs of training their replacements. Because operating expenses incurred are not actually recouped for a period of three years, beginning in 2016, the Coast Guard added a $150,000 surcharge per applicant pilot to recoup those costs in the year incurred. To ensure that the ratepayers are not double-billed for the same expense(s), we need to deduct the amount collected via surcharges from the operating expenses. For that reason, the Coast Guard is proposing a ''surcharge adjustment from 2016'' as part of its proposed adjustment for each pilotage district. This surcharge adjustment reflects the additional monies that were collected by the surcharge collected that year. We note that in 2016, there was no mechanism to prevent the collection of surcharges above the authorized amounts, and so the amounts we propose to deduct from each association's operating expenses are equal to the actual amount of surcharges collected in the 2016 shipping season, which are in excess of $150,000 per applicant pilot.

We also propose to deduct 3 percent of the ''shared counsel'' expenses for each district, to account for lobbying expenditures. Pursuant to 33 CFR 404.2(c)(3), lobbying expenses are not permitted to be recouped as operating expenses.

For each of the analyses of the operating expenses below, we explain why we are proposing to make the Director's adjustments, other than the surcharge adjustments and lobbying expenses, described above. Other adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking. Numbers by the entries are references to descriptions in the auditor's reports.

TABLE 3—2016 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2016	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Costs relating to pilots:			
Pilot subsistence/travel	$421,749	$336,384	$758,133
Subsistence/Travel—Pilots (D1–16–01)	−70,224	−34,846	−105,070
License insurance	40,464	28,269	68,733
Payroll taxes	111,279	90,179	201,458
Payroll taxes—Pilots (D1–16–03)	0	−2,509	−2,509
Training	17,198	13,717	30,915
Training—Pilots (D1–16–04)	−594	0	−594
Other	842	672	1,514
Total costs relating to pilots	520,714	431,866	952,580
Applicant Pilots:			
Wages	70,700	90,000	160,700
Wages (D1–16–02)	0	28,054	28,054
Subsistence/Travel	0	146,219	146,219
Subsistence/Travel—Trainees (D1–16–02)	−12,283	−20,589	−32,872
Benefits	0	0	0
Payroll taxes	8,039	11,123	19,162
Payroll taxes—Trainees (D1–16–03)	0	−5,115	−5,115
Surcharge Offset—Director's Adjustment	−318,117	−253,649	−571,766
Total applicant pilot costs	−251,661	−3,957	−255,618
Pilot Boat and Dispatch Costs:			
Pilot boat expense	209,800	167,335	377,135
Dispatch expense	51,240	31,705	82,945
Payroll taxes	16,007	12,767	28,774
Total pilot and dispatch costs	277,047	211,807	488,854
Administrative Expenses:			
Legal—general counsel	4,565	3,641	8,206
Legal—shared (K&L Gates) (D1–16–05)	20,558	16,397	36,955
Legal—shared (K&L Gates) (D1–16–05)	−713	−713	−1,426

[12] These reports are available in the docket for this rulemaking (see Docket # USCG–2018–0665).

TABLE 3—2016 RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2016	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Legal—shared counsel 3% lobbying fee (K&L Gates) (Director's Adjustment)	−617	−492	−1,109
Office rent	0	0	0
Insurance	21,869	17,443	39,312
Employee benefits—Admin	9,428	7,519	16,947
Payroll taxes—Admin	6,503	5,187	11,690
Other taxes	274,503	218,941	493,444
Admin Travel	2,346	1,871	4,217
Depreciation/Auto leasing/Other	65,971	52,618	118,589
Interest	20,688	16,501	37,189
Dues and Subscriptions (incl. APA) (D1–16–05)	29,687	13,959	43,646
Dues and Subscriptions (incl. APA) (D1–16–05)	−1,079	−1,079	−2,158
Utilities	12,318	9,578	21,896
Salaries—Admin	65,401	52,163	117,564
Accounting/Professional fees	5,479	3,921	9,400
Other	23,456	18,708	42,164
Total Administrative Expenses	560,363	436,163	996,526
Total Operating Expenses	1,106,463	1,075,879	2,182,342

In District One, we do not propose any additional Director's adjustments.

TABLE 4—2016 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2016	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Pilot-related expenses:			
Pilot subsistence/travel	$131,956	$197,935	$329,891
Pilot subsistence/travel CPA Adjustment (D2–16–01)	−44,955	−67,433	−112,388
License insurance	10,095	15,142	25,237
License Insurance CPA Adjustment (D2–16–03)	−635	−953	−1,588
Payroll taxes	77,306	115,958	193,264
Total Pilot-related expenses	173,767	260,649	434,416
Expenses related to applicant pilots:			
Wages (from supplemental form)	228,499	342,749	571,248
Wages—Director's Adjustment	−125,472	−188,209	−313,681
Benefits (from supplemental form)	9,736	14,605	24,341
Applicant pilot Subsistence/Travel	43,905	65,858	109,763
Applicant Pilot subsistence/travel CPA Adjustment (D2–16–02)	−14,940	−22,410	−37,350
Housing Allowance CPA Adjustment (D2–16–02)	14,940	22,410	37,350
Payroll taxes	15,144	22,717	37,861
2016 Surcharge Offset Director's Adjustment	−158,640	−277,106	−435,746
Total applicant pilot expenses	13,172	−19,386	−6,214
Pilot Boat and Dispatch Costs:			
Pilot boat expense	205,572	308,359	513,931
Dispatch expense	8,520	12,780	21,300
Employee benefits	75,405	113,107	188,512
Payroll taxes	10,305	15,457	25,762
Total pilot and dispatch costs	299,802	449,703	749,505
Administrative Expenses:			
Office rent	26,275	39,413	65,688
Office Rent CPA Adjustment (D2–16–08)	4,766	7,150	11,916
Legal—general counsel	1,624	2,437	4,061
Legal—shared counsel (K&L Gates)	13,150	19,725	32,875
Legal—shared counsel CPA Adjustment (D2–16–04)	−526	−789	−1,315

TABLE 4—2016 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2016	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Legal—shared counsel 3% lobbying fee (K&L Gates) (Director's Adjustment)	−395	−592	−987
Employee Benefits—Admin Employees	59,907	89,861	149,768
Employee benefits (Director's Adjustment)	−30,200	−60,400	−90,600
Workman's compensation—pilots	74,561	111,841	186,402
Payroll taxes—admin employees	5,688	8,532	14,220
Insurance	10,352	15,529	25,881
Other taxes	9,149	13,723	22,872
Administrative Travel	18,205	27,307	45,512
Administrative Travel (D2–16–06)	−153	−229	−382
Depreciation/auto leasing/other	39,493	59,239	98,732
Depreciation/Auto leasing/Other CPA Adjustment (D2–16–03)	−221	−332	−553
Interest	6,224	9,336	15,560
APA Dues	17,145	25,717	42,862
APA Dues CPA Adjustment (D2–16–04)	−815	−1,223	−2,038
Utilities	16,748	25,121	41,869
Salaries	55,426	83,139	138,565
Accounting/Professional fees	12,520	18,780	31,300
Other	128,093	192,139	320,232
Other CPA Adjustment (D2–16–07)	−221	−332	−553
Total Administrative Expenses	435,975	638,861	1,074,836
Total Operating Expenses	922,716	1,329,827	2,252,543

In District Two, we propose two additional Director's adjustments. First, we note that we initially received inaccurate information from District Two regarding applicant pilot wages.[13] In response to our inquiries, District Two provided updated information about wages and benefits paid to applicant pilots and asserted that wages for two applicant pilots were $571,248 combined. Because this number is far out of line from wages paid to applicant pilots in other districts, as well as the Coast Guard's estimate of approximately $150,000 per pilot to pay for wages, benefits, and training, the Director proposes only allowing a portion of these expenses to be recouped as reasonable operating expenses. Therefore, we propose an adjustment of −$313,681 to the allowed recoupable operating expenses for District Two. This results in a total wage of $257,567, or approximately $128,783 per applicant, which is equal to the wages for applicant pilots in District Three. Given that the Coast Guard estimated the total cost for each applicant pilot to be $150,000, we believe this is a reasonable adjustment and the Director will allow the full amount.

We also deducted a total of $90,600 from the employee benefits costs of District Two. This is based on a note from the auditor that this money had been used for ''health insurance expenses . . . paid to retired pilots who performed pilotage services for the District in 2016.''[14] While pilot associations are free to hire additional pilots to assist with workloads, money paid to them comes from the general monies used to pay pilot compensation. Unlike payroll taxes, we consider health benefits to be ''compensation,'' and compensation paid to pilots cannot be recouped as operating expenses, as health care expenses were part of the calculations of the compensation benchmark rate set forth in the 2018 final rule.

TABLE 5—2016 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2016	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Pilotage Costs:			
Pilot subsistence/travel	$378,014	$100,485	$478,499
Pilot subsistence/Travel (D3–16–01)	−50,285	−13,367	−63,652
Pilot subsistence/Travel director's adjustment (housing allowance)	0	−36,900	−36,900
License insurance	21,446	5,701	27,147
Payroll taxes	194,159	51,612	245,771
Other	19,193	72,202	91,395

[13] District Two initially reported paying $1,772,213 in compensation to 5 applicant pilots, although they were authorized only two applicants in 2016. See docket # USCG–2018–0665–0003, p. 8.

[14] Docket # USCG–2018–0665–0003, p. 8.

TABLE 5—2016 RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2016	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Total Pilotage Costs	562,527	179,733	742,260
Applicant Pilots:			
Wages	610,433	162,267	772,700
Benefits	100,234	26,644	126,878
Subsistence/travel	170,089	45,214	215,303
Payroll taxes	50,561	13,440	64,001
Training	11,642	3,095	14,737
Surcharge Adjustment	−1,106,339	−235,673	−1,342,012
Total applicant pilotage costs	−163,380	14,987	−148,393
Pilot Boat and Dispatch Costs:			
Pilot boat costs	580,822	154,396	735,218
Pilot boat costs (D3–16–02)	−72,724	−19,332	−92,056
Dispatch costs	146,220	38,868	185,088
Employee benefits	6,517	1,733	8,250
Payroll taxes	15,745	4,186	19,931
Total pilot boat and dispatch costs	676,580	179,851	856,431
Administrative Expenses:			
Legal—general counsel	22,196	5,900	28,096
Legal—shared counsel (K&L Gates)	34,020	9,043	43,063
Legal—shared counsel 3% (Director's Adjustment)	−1,021	−271	−1,292
Office rent	6,978	1,855	8,833
Insurance	14,562	3,871	18,433
Employee benefits	103,322	27,465	130,787
Payroll Taxes (administrative employees)	6,540	1,739	8,279
Other taxes	1,338	356	1,694
Depreciation/auto leasing/other	46,016	12,232	58,248
Interest	2,775	738	3,513
APA Dues	24,760	6,582	31,342
Utilities	38,763	10,304	49,067
Administrative Salaries	94,371	25,086	119,457
Accounting/Professional fees	31,877	8,474	40,351
Pilot Training	35,516	9,441	44,957
Other	13,619	3,621	17,240
Other expenses (D3–16–03)	−2,054	−546	−2,600
Total Administrative Expenses	473,578	125,890	599,468
Total Operating Expenses	1,549,305	500,461	2,049,766

For District Three, the Director proposes to disallow $36,900 in "housing allowance" expenditures. At this time, we do not know if these funds were for properties that were available to all of the association partners/members (and thus recoverable as operating expenses) or if these funds were used for properties that were exclusively used by a single member and his family (and therefore not recoverable as operating expenses). We invite the pilot association to provide the receipts that could help to determine if these are recoverable operating expenses.

B. Step 2: Projection of Operating Expenses

Having identified the recognized 2016 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculated inflation using the Bureau of Labor Statistics' data from the Consumer Price Index for the Midwest Region of the United States [15] and reports from the Federal Reserve.[16] Based on that information, the calculations for Step 1 are as follows:

TABLE 6—2016 ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$1,106,463	$1,075,879	$2,182,342
2017 Inflation Modification (@1.7%)	18,810	18,290	37,100
2018 Inflation Modification (@2.1%)	23,631	22,978	46,609
2019 Inflation Modification (@2.1%)	24,127	23,460	47,587
Adjusted 2019 Operating Expenses	1,173,031	1,140,607	2,313,638

TABLE 7—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$922,716	$1,329,827	$2,252,543
2017 Inflation Modification (@1.7%)	15,686	22,607	38,293
2018 Inflation Modification (@2.1%)	19,706	28,401	48,107
2019 Inflation Modification (@2.1%)	20,120	28,998	49,118
Adjusted 2019 Operating Expenses	978,228	1,409,833	2,388,061

TABLE 8—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$1,549,305	$500,461	$2,049,766
2017 Inflation Modification (@1.7%)	26,338	8,508	34,846
2018 Inflation Modification (@2.1%)	33,089	10,688	43,777
2019 Inflation Modification (@2.1%)	33,783	10,913	44,696
Adjusted 2019 Operating Expenses	1,642,515	530,570	2,173,085

C. Step 3: Estimate Number of Working Pilots

In accordance with the text in § 404.103, we estimated the number of working pilots in each district. Based on input from the Saint Lawrence Seaway Pilots Association, we estimate that there will be 17 working pilots in 2019 in District One. Based on input from the Lakes Pilots Association, we estimate there will be 14 working pilots in 2019 in District Two. Based on input from the Western Great Lakes Pilots Association, we estimate there will be 20 working pilots in 2019 in District Three.

Furthermore, based on the staffing model employed to develop the total number of pilots needed, we assign a certain number of pilots to designated waters and a certain number to undesignated waters. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 9—AUTHORIZED PILOTS

	District One	District Two	District Three
Maximum number of pilots (per § 401.220(a)) [17]	17	15	22
2019 Authorized pilots (total)	17	14	20
Pilots assigned to designated areas	10	7	4
Pilots assigned to undesignated areas	7	7	16

D. Step 4: Determine Target Pilot Compensation

In this step, we determine the total pilot compensation for each area. Because we are proposing an ''interim'' ratemaking this year, we propose to follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. Because we do not have a value for the employment cost index for 2019, we multiply last year's compensation benchmark by the Median PCE Inflation of 2.1 percent.[18] Based on the projected 2019 inflation estimate, the proposed compensation

[15] *Available at https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.*

[16] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20180613.pdf.*

[17] For a detailed calculation of the staffing model, see 82 FR 41466, table 6 at 41480 (August 31, 2017).

[18] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20180613.pdf.*

benchmark for 2019 is $359,887 per pilot.

Next, we certify that the number of pilots estimated for 2019 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 17 pilots for District One, 15 pilots for District Two, and 22 pilots for District Three,[19] which is more than or equal to the numbers of working pilots provided by the pilot associations.

Thus, in accordance with proposed § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for each district, as shown in tables 10–12.

TABLE 10—TARGET COMPENSATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	10	7	17
Total Target Pilot Compensation	3,598,870	2,519,209	6,118,079

TABLE 11—TARGET COMPENSATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	7	7	14
Total Target Pilot Compensation	2,519,209	2,519,209	5,038,418

TABLE 12—TARGET COMPENSATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	16	4	20
Total Target Pilot Compensation	5,758,192	1,439,548	7,197,740

E. Step 5: Calculate Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high grade corporate securities. Using Moody's data, that number is 3.74 percent.[20] By multiplying the two figures, we get the working capital fund contribution for each area, as shown in tables 13–15.

TABLE 13—WORKING CAPITAL FUND CALCULATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$1,173,031	$1,140,607	$2,313,638
Total Target Pilot Compensation (Step 4)	3,598,870	2,519,209	6,118,079
Total 2019 Expenses	4,771,901	3,659,816	8,431,717
Working Capital Fund (3.74%)	178,469	136,877	315,346

TABLE 14—WORKING CAPITAL FUND CALCULATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$978,228	$1,409,833	$2,388,061
Total Target Pilot Compensation (Step 4)	2,519,209	2,519,209	5,038,418
Total 2019 Expenses	3,497,437	3,929,042	7,426,479
Working Capital Fund (3.74%)	130,804	146,946	277,750

[19] See Table 6 of the 2017 final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[20] Moody's Seasoned Aaa Corporate Bond Yield, average of 2017 monthly data. The Coast Guard uses the most recent complete year of data. See *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119*.

TABLE 15—WORKING CAPITAL FUND CALCULATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,642,515	$530,570	$2,173,085
Total Target Pilot Compensation (Step 4)	5,758,192	1,439,548	7,197,740
Total 2019 Expenses	7,400,707	1,970,118	9,370,825
Working Capital Fund (3.74%)	276,786	73,682	350,468

F. Step 6: Calculate Revenue Needed

In this step, we add up all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in tables 15–17.

TABLE 15—REVENUE NEEDED FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$1,173,031	$1,140,607	$2,313,638
Total Target Pilot Compensation (Step 4)	3,598,870	2,519,209	6,118,079
Working Capital Fund (Step 5)	178,469	136,877	315,346
Total Revenue Needed	4,950,370	3,796,693	8,747,063

TABLE 16—REVENUE NEEDED FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$978,228	$1,409,833	$2,388,061
Total Target Pilot Compensation (Step 4)	2,519,209	2,519,209	5,038,418
Working Capital Fund (Step 5)	130,804	146,946	277,750
Total Revenue Needed	3,628,241	4,075,988	7,704,229

TABLE 17—REVENUE NEEDED FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,642,515	$530,570	$2,173,085
Total Target Pilot Compensation (Step 4)	5,758,192	1,439,548	7,197,740
Working Capital Fund (Step 5)	276,786	73,682	350,468
Total Revenue Needed	7,677,493	2,043,800	9,721,293

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, we divide that number by the expected number of hours of traffic to develop an hourly rate. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in each district. Because we are calculating separate figures for designated and undesignated waters, there are two parts for each calculation. The calculations are shown in tables 18–20.

TABLE 18—TIME ON TASK FOR DISTRICT ONE

Year	Designated	Undesignated
2017	7605	8679
2016	5434	6217
2015	5743	6667
2014	6810	6853
2013	5864	5529
2012	4771	5121
2011	5045	5377
2010	4839	5649
2009	3511	3947
2008	5829	5298
Average	5545	5934

TABLE 19—TIME ON TASK FOR DISTRICT TWO

Year	Undesignated	Designated
2017	5139	6074
2016	6425	5615
2015	6535	5967
2014	7856	7001
2013	4603	4750
2012	3848	3922
2011	3708	3680
2010	5565	5235
2009	3386	3017
2008	4844	3956
Average	5191	4922

TABLE 20—TIME ON TASK FOR DISTRICT THREE

Year	Undesignated	Designated
2017	26183	3798
2016	23421	2769
2015	22824	2696
2014	25833	3835
2013	17115	2631
2012	15906	2163
2011	16012	1678
2010	20211	2461
2009	12520	1820
2008	14287	2286
Average	19431	2614

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate needed to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in tables 21–23.

TABLE 21—INITIAL RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue needed (Step 6)	$4,950,370	$3,796,693
Average time on task (hours)	5,545	5,934
Initial rate	893	640

TABLE 22—INITIAL RATE CALCULATIONS FOR DISTRICT TWO

	Undesignated	Designated
Revenue needed (Step 6)	$3,628,241	$4,075,988
Average time on task (hours)	5,191	4,922
Initial rate	699	828

TABLE 23—INITIAL RATE CALCULATIONS FOR DISTRICT THREE

	Undesignated	Designated
Revenue needed (Step 6)	$7,677,493	$2,043,800
Average time on task (hours)	19,431	2,614
Initial rate	395	782

H. Step 8: Calculate Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 24–29.

TABLE 24—AVERAGE WEIGHTING FACTOR FOR DISTRICT 1, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41
Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 2 (2017)	352	1.15	404.8
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36.4
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87.1
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Class 4 (2017)	285	1.45	413.25
Total	2464		3149.5
Average weighting factor (weighted transits/number of transits)		1.28	

TABLE 25—AVERAGE WEIGHTING FACTOR FOR DISTRICT 1, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 2 (2017)	290	1.15	333.5
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	54.6
Class 3 (2016)	28	1.3	36.4
Class 3 (2017)	45	1.3	58.5
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9
Class 4 (2017)	285	1.45	413.25
Total	2290		2965.75
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 26—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255.3
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	11.7
Class 3 (2017)	12	1.3	15.6
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Class 4 (2017)	319	1.45	462.55

TABLE 26—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Total	3455		4556.45
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 27—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 2 (2017)	127	1.15	146.05
Class 3 (2014)	8	1.3	10.4
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	4	1.3	5.2
Class 3 (2017)	4	1.3	5.2
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Class 4 (2017)	185	1.45	268.25
Total	2072		2724.2
Average weighting factor (weighted transits/number of transits)		1.31	

TABLE 28—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Area 6:			
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 2 (2017)	264	1.15	303.6
Class 3 (2014)	15	1.3	19.5
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	24.7
Class 4 (2014)	394	1.45	571.3
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Class 4 (2017)	367	1.45	532.15
Total for Area 6	2,886		3,709.35
Area 8:			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	151	1.15	173.65
Class 3 (2014)	3	1.3	3.9
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9.1
Class 3 (2017)	18	1.3	23.4
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85

TABLE 28—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2016)	204	1.45	295.8
Class 4 (2017)	269	1.45	390.05
Total for Area 8	1,679		2224.1
Combined total	4,565		5,933.45
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 29—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	170	1.15	195.5
Class 3 (2014)	4	1.3	5.2
Class 3 (2015)	0	1.3	0
Class 3 (2016)	6	1.3	7.8
Class 3 (2017)	14	1.3	18.2
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Class 4 (2017)	234	1.45	339.3
Total	1892		2,451.65
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in table 30.

TABLE 30—REVISED BASE RATES

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate/average weighting factor)
District One: Designated	$893	1.28	$698
District One: Undesignated	640	1.30	492
District Two: Undesignated	699	1.32	530
District Two: Designated	828	1.31	632
District Three: Undesignated	395	1.30	304
District Three: Designated	782	1.30	602

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish that the proposed rates do meet the goal of ensuring safe, efficient and reliable pilotage, the Director considered whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there are sufficient pilots to handle those heavy traffic periods. Also, he considered whether the proposed rates would cover operating expenses and infrastructure costs, and took average traffic and weighting factors into consideration. Based on this information, the Director is not proposing any alterations to the rates in this step. We propose to modify the text in § 401.405(a) to reflect the final rates, also shown in table 31.

TABLE 31—PROPOSED FINAL RATES

Area	Name	Final 2018 pilotage rate	Proposed 2019 pilotage rate
District One: Designated	St. Lawrence River	$653	$698
District One: Undesignated	Lake Ontario	435	492
District Two: Undesignated	Lake Erie	497	530
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	593	632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	271	304
District Three: Designated	St. Mary's River	600	602

K. Surcharges

Because there are several applicant pilots in 2019, we are proposing to levy surcharges to cover the costs needed for training expenses. Consistent with previous years, we are proposing to assign a cost of $150,000 per applicant pilot. To develop the surcharge, we multiply the number of applicant pilots by the average cost per pilot to develop a total amount of training costs needed, and then impose that amount as a surcharge to all areas in the respective district, consisting of a percentage of revenue needed. In this year, there are two applicant pilots for District One, one applicant pilot for District Two, and four applicant pilots for District Three. The calculations to develop the surcharges are shown in table 32. We note that while the percentages are rounded for simplicity, such rounding does not impact the revenue generated, as surcharges can no longer be collected once the surcharge total has been attained.

Additionally, the Coast Guard is considering the necessity of continuing with the surcharge for applicant pilots in this or future rulemakings. As the vast majority of registered pilots are not scheduled to retire in the next 20 years, we believe that pilot associations are now able to plan for the costs associated with retirements without relying on the Coast Guard to impose surcharges. We invite comment on the necessity of continuing this practice.

TABLE 32—SURCHARGE CALCULATIONS

	District one	District two	District three
Number of applicant pilots	2	1	4
Total applicant training costs	$300,000	$150,000	$600,000
Revenue needed (Step 6)	$8,747,063	$7,704,229	$9,721,293
Total surcharge as percentage (total training costs/revenue)	3%	2%	6%

VIII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563, (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this proposed rule is not a significant regulatory action, it is exempt from the requirements of Executive Order 13771. *See* the OMB's Memorandum titled, ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows.

The purpose of this rulemaking is to propose new base pilotage rates and surcharges for training. The last full ratemaking was concluded in June of 2018.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See sections IV and V of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we propose adjusting the pilotage rates for the 2019 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this proposed rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers. The total payments that would be made by shippers during the 2019 shipping season are estimated at approximately $2,066,143 more than the total payments that were estimated in 2018 (table 33).[21]

[21] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

A detailed discussion of our economic impact analysis follows.

Affected Population

This proposed rule would impact U.S. Great Lakes pilots, the 3 pilot associations, and the owners and operators of oceangoing vessels that transit the Great Lakes annually. As discussed in step 3 in Section VII.C of this preamble, there will be 51 pilots working during the 2019 shipping season. The shippers affected by these rate changes are those owners and operators of domestic vessels operating ''on register'' (employed in foreign trade) and owners and operators of non-Canadian foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

We used billing information from the years 2015 through 2017 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. In Step 7 of the methodology, we use a 10-year average to estimate the traffic. We use 3 years of the most recent billing data to estimate the affected population. When we reviewed 10 years of the most recent billing data, we found the data included vessels that have not used pilotage services in recent years. We believe using 3 years of billing data is a better representation of the vessel population that is currently using pilotage services and would be impacted by this rulemaking. We found that 448 unique vessels used pilotage services during the years 2015 through 2017. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS. Of these vessels, 418 were foreign-flagged vessels and 30 were U.S.-flagged. As previously stated, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but they can voluntarily choose to have one.

Vessel traffic is affected by numerous factors and varies from year to year. Therefore, rather than the total number of vessels over the time period, an average of the unique vessels using pilotage services from the years 2015 through 2017 is the best representation of vessels estimated to be affected by the rate proposed in this NPRM. From the years 2015 through 2017, an average of 256 vessels used pilotage services annually.[22] On average, 241 of these vessels were foreign-flagged vessels and 15 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The rate changes resulting from this adjustment to the rates would add new costs to shippers in the form of higher payments to pilots. We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2018 with the total projected revenues to cover costs in 2019, including any temporary surcharges we have authorized. We set pilotage rates so that pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in revenue from the previous year is the additional cost to shippers discussed in this proposed rule.

The impacts of the proposed rate changes on shippers are estimated from the District pilotage projected revenues (shown in tables 15 through 17 of this preamble) and the proposed surcharges described in section VII.K of this preamble. We estimate that for the 2019 shipping season, the projected revenue needed for all three districts is $26,172,585. Temporary surcharges on traffic in Districts One, Two, and Three would be applied for the duration of the 2019 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations would require $300,000, $150,000, and $600,000 in revenue for applicant training expenses in Districts One, Two, and Three, respectively. This would represent a total cost of $1,050,000 to shippers during the 2019 shipping season. Adding the projected revenue of $26,172,585 to the proposed surcharges, we estimate the pilotage associations' total projected revenue needed for 2019 would be $27,222,585.

To estimate the additional cost to shippers from this proposed rule, we compare the 2019 total projected revenues to the 2018 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single year cost rather than annualized over a 10-year period. In the 2018 rulemaking,[23] we estimated the total projected revenue needed for 2018, including surcharges, as $25,156,442. This is the best approximation of 2018 revenues as, at the time of this publication, we do not have enough audited data available for the 2018 shipping season to revise these projections. Table 33 shows the revenue projections for 2018 and 2019 and details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 33—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Revenue needed in 2018	2018 temporary surcharge	Total 2018 projected revenue	Revenue needed in 2019	2019 temporary surcharge	Total 2019 projected revenue	Additional costs of this rule
Total, District 1	$7,988,670	$300,000	$8,288,670	$8,747,063	$300,000	$9,047,063	$758,393

[22] Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels utilizing pilotage services in any given year.

[23] The 2018 projected revenues are from the 2018 Great Lakes Pilotage Ratemaking final rule (83 FR 26189), Table 41.

TABLE 33—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT—Continued

[$U.S.; non-discounted]

Area	Revenue needed in 2018	2018 temporary surcharge	Total 2018 projected revenue	Revenue needed in 2019	2019 temporary surcharge	Total 2019 projected revenue	Additional costs of this rule
Total, District 2	7,230,300	150,000	7,380,300	7,704,229	150,000	7,854,229	473,929
Total, District 3	8,887,472	600,000	9,487,472	9,721,293	600,000	10,321,293	833,821
System Total	$24,106,442	$1,050,000	$25,156,442	$26,172,585	$1,050,000	$27,222,585	$2,066,143

The resulting difference between the projected revenue in 2018 and the projected revenue in 2019 is the proposed annual change in payments from shippers to pilots as a result of the rate change that would be imposed by this rule. The effect of the proposed rate change to shippers varies by area and district. The rate changes, after taking into account the increase in pilotage rates and the addition of temporary surcharges, would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $758,393, $473,929, and $833,821, respectively, over the previous year. The overall adjustment in payments would be an increase in payments by shippers of $2,066,143 across all three districts (an 8 percent increase over 2018). Again, because we review and set rates for Great Lakes Pilotage annually, we estimate the impacts as single year costs rather than annualizing them over a 10-year period.

Table 34 shows the difference in revenue by component from 2018 to 2019.[24] The majority of the increase in revenue is due to the inflation of operating expenses and to the addition of two pilots who were authorized in the 2018 rule. These two pilots are training in 2018 and will become full-time working pilots at the beginning of the 2019 shipping season. They would be compensated at the target compensation of $359,887 per pilot. The addition of these pilots to full working status accounts for $719,774 of the increase ($1,082,472 when also including the effect of increasing compensation for 49 pilots). The remaining amount is attributed to increases in the working capital fund.

TABLE 34—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2018	Revenue needed in 2019	Difference (2019 revenue–2018 revenue)
Adjusted Operating Expenses	$5,965,599	$6,874,784	$909,185
Total Target Pilot Compensation	17,271,765	18,354,237	1,082,472
Working Capital Fund	869,078	943,564	74,486
Total Revenue Needed, without Surcharge	24,106,442	26,172,585	2,066,143
Surcharge	1,050,000	1,050,000	0
Total Revenue Needed, with Surcharge	25,156,442	27,222,585	2,066,143

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on foreign-flagged vessels that would be affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The portion of the trip on the Great Lakes using a pilot is only a portion of the whole trip. The affected vessels are often traveling from a foreign port, and the days without a pilot on the total trip often exceed the days a pilot is needed.

To estimate this impact, we used the 2017 study titled, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges.''[25] We conducted the study to explore additional frameworks and methodologies for assessing the cost of Great Lakes pilot's ratemaking regulations, with a focus on capturing industry and port level economic impacts. The study also included an analysis of the pilotage costs as a percentage of the total voyage costs that we can use in RAs to estimate the direct impact of changes to the pilotage rates.

The study developed a voyage cost model that is based on a vessel's daily costs. The daily costs included: Capital repayment costs; fuel costs; operating costs (such as crew, supplies, and insurance); port costs; speed of the vessel; stevedoring rates; and tolls. The daily operating costs were translated into total voyage costs using mileage between the ports for a number of voyage scenarios. In the study, the total voyage costs were then compared to the U.S. pilotage costs. The study found that, using the 2016 rates, the U.S. pilotage charges represent 10 percent of the total voyage costs for a vessel carrying grain, and between 8 percent and 9 percent of the total voyage costs for a vessel carrying steel.[26] We updated the analysis to estimate the percentage U.S. pilotage charges represent using the percentage increase in revenues from the years 2016 to 2019. Since the study used 2016 as the latest year of data, we compared the revenues needed in 2019 and 2018 to the 2016 revenues in order to estimate the change in pilotage costs

[24] The 2018 projected revenues are from the 2018 final rule (83 FR 26189), table 41. The 2018 projected revenues are from tables 15–17 of this NPRM.

[25] The study is available at *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Waterways-and-Ocean-Policy/Office-of-Waterways-and-Ocean-Policy-Great-Lakes-Pilotage-Div/*.

[26] Martin Associates, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges,'' page 33. Available at *http://www.regulations.gov,* USCG–2018–0665–0005.

as a percentage of total voyage costs from 2018 to 2019. Table 35 shows the revenues needed for the years 2016, 2017, and 2018.

TABLE 35—REVENUE NEEDED IN 2016, 2017, 2018, AND 2019

Revenue component	Revenue needed in 2016	Revenue needed in 2017	Revenue needed in 2018	Revenue needed in 2019
Adjusted Operating Expenses	$4,677,518	$5,155,280	$5,965,599	$6,874,784
Total Target Pilot Compensation	12,066,226	14,983,335	17,271,765	18,354,237
Working Capital Fund	709,934	837,766	869,078	943,564
Total Revenue Needed, without Surcharge	*17,453,678*	*20,976,381*	*24,106,442*	26,172,585
Surcharge	1,650,000	1,350,000	1,050,000	1,050,000
Total Revenue Needed, with Surcharge	19,103,678	22,326,381	25,156,442	27,222,585
% Increase from 2016 Total Revenue	....	17%	32%	42%
U.S. Pilotage Cost as Percentage of the Total Voyage Costs	9.8%	11.3%	12.6%	13.4%

From 2016 to 2019, the total revenues needed would increase by 42 percent. While the change in total voyage cost would vary by the trip, vessel class, and whether the vessel is carrying steel or grain, we used these percentages as an average increase to estimate the change in the impact. When we increased the 2016 base pilotage charges by 32 percent, we found the U.S. pilotage costs represented an average of 12.6 percent of the total voyage costs for 2018. To look at the percentage of the total voyage costs for 2019, we then increased the base 2016 rates by 42 percent. With this proposed rule's rates for 2019, pilotage costs are estimated to account for 13.4 percent of the total voyage costs, or a 0.8 percent increase over the percentage that U.S. pilotage costs represented of the total voyage in 2018.

It is important to note that this analysis is based on a number of assumptions. The purpose of the study was to look at the impact of the U.S. pilotage rates. The study did not include an analysis of the GLPA rates. It was assumed that a U.S. pilot is assigned to all portions of a voyage where he or she could be assigned. In reality, the assignment of a United States or Canadian pilot is based on the order in which a vessel enters the system, as outlined in the Memorandum of Understanding between the GLPA and the Coast Guard.

This analysis only looks at the impact of proposed U.S. pilotage cost changes. All other costs were held constant at the 2016 levels, including Canadian pilotage costs, tolls, stevedoring, and port charges. This analysis estimates the impacts of Great Lakes pilotage rates holding all other factors constant. If other factors or sectors were not held constant but, instead, were allowed to adjust or fluctuate, it is likely that the impact of pilotage rates would be different. Many factors that drive the tonnage levels of foreign cargo on the Great Lakes and St. Lawrence Seaway were held constant for this analysis. These factors include, but are not limited to, demand for steel and grain, construction levels in the regions, tariffs, exchange rates, weather conditions, crop production, rail and alternative route pricing, tolls, vessel size restriction on the Great Lakes and St. Lawrence Seaway, and inland waterway river levels.

Benefits

This proposed rule would allow the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes would promote safe, efficient, and reliable pilotage service on the Great Lakes by: (1) Ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring the association produces enough revenue to fund future improvements. The rate changes would also help recruit and retain pilots, which would ensure a sufficient number of pilots to meet peak shipping demand, helping to reduce delays caused by pilot shortages.

B. Small Entities

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

For the proposed rule, we reviewed recent company size and ownership data for the vessels identified in the GLPMS, and we reviewed business revenue and size data provided by publicly available sources such as MANTA [27] and ReferenceUSA.[28] As described in Section VIII.A of this preamble, Regulatory Planning and Review, we found that a total of 448 unique vessels used pilotage services from 2015 through 2017. These vessels are owned by 57 entities. We found that of the 57 entities that own or operate vessels engaged in trade on the Great Lakes affected by this proposed rule, 47 are foreign entities that operate primarily outside the United States. The remaining 10 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) Table of Small Business Size Standards [29] to determine how many of these companies are small entities. Table 36 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

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

[28] See *http://resource.referenceusa.com/*.

[29] Source: *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards*. SBA has established a Table of Small Business Size Standards, which is matched to NAICS industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be considered in order to remain classified as a small business for SBA and Federal contracting programs.

TABLE 36—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
483211	Inland Water Freight Transportation	750 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488330	Navigational Services to Shipping	$38.5 million.
488510	Freight Transportation Arrangement	$15 million.

The entities all exceed the SBA's small business standards for small businesses. Furthermore, these U.S. entities operate U.S.-flagged vessels and are not required to have pilots as required by 46 U.S.C. 9302.

In addition to the owners and operators of vessels affected by this proposed rule, there are three U.S. entities that would be affected by this proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships, and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 employees in total, and therefore, they are designated as small entities. We expect no adverse effect on these entities from this proposed rule because all associations would receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields that would be impacted by this proposed rule. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people that would be impacted by this proposed rule. Based on this analysis, we conclude this proposed rulemaking, if promulgated, would not affect a substantial number of small entities.

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

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

D. Collection of Information

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

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' *See* 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security (DHS) Directive 023–01, Revision (Rev) 01, *Implementation of the National Environmental Policy Act* [DHS Instruction Manual 023–01 (series)] and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule meets the criteria for categorical exclusion (CATEX) under paragraph A3 of table 1, particularly subparts (a), (b), and (c) in Appendix A of DHS Directive 023–01(series). CATEX A3 pertains to promulgation of rules and procedures that are: (a) Strictly administrative or procedural in nature; (b) that implement, without substantive change, statutory or regulatory requirements; or (c) that implement, without substantive change, procedures, manuals, and other guidance documents. This proposed rule adjusts base pilotage rates and surcharges for administering the 2019 shipping season in accordance with applicable statutory and regulatory mandates, and also proposes a technical change to the Great Lakes pilotage ratemaking methodology. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

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

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401 and 404 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. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Amend § 401.405 by revising paragraph (a) to read as follows:

§ 401.405 Pilotage rates and charges

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $698;

(2) Lake Ontario is $492;

(3) Lake Erie is $530;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $632;

(5) Lakes Huron, Michigan, and Superior is $304; and

(6) The St. Mary's River is $602.

* * * * *

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 3. The authority citation for part 404 continues to read as follows:

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

§ 404.104 [Amended]

■ 4. Amend § 404.104(c) by removing the reference to § 404.103(d) and adding in its place a reference to § 404.103.

Dated: October 11, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Prevention Policy .

[FR Doc. 2018–22513 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P