Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0499; FRL–9954–19–Region 9]

Approval and Promulgation of Implementation Plan; California; Calaveras County, Chico (Butte County), San Francisco Bay Area and San Luis Obispo County (Eastern San Luis Obispo) Base Year Emission Inventories for the 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the California State Implementation Plan (SIP) concerning the base year emission inventories (EIs) for four areas designated as nonattainment areas for the 2008 ozone National Ambient Air Quality Standards (2008 ozone NAAQS). The subject areas include Calaveras County, Chico (Butte County), San Francisco Bay Area and San Luis Obispo (Eastern San Luis Obispo). We are proposing to approve these revisions under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 18, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0499 at *http://www.regulations.gov*, or via email to Nancy Levin, Air Planning Office at *levin.nancy@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA. This proposal addresses base year EIs for the Calaveras County, Chico (Butte County), San Francisco Bay Area and San Luis Obispo (Eastern San Luis Obispo) 2008 ozone NAAQS nonattainment areas. We are approving these base year EIs in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on a particular base year EI, we may adopt as final those that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 28, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–25161 Filed 10–18–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2016–0268]

RIN 1625–AC34

Great Lakes Pilotage Rates—2017 Annual Review

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes new base pilotage rates and surcharges using the methodology instituted in 2016. The changes would take effect 30 days after publication of a final rule. Rates for pilotage services on the Great Lakes were last revised in March 2016 and, by law, must be reviewed annually.

DATES: Comments and related material must be submitted to the online docket via *www.regulations.gov* on or before December 19, 2016. Requests for a public meeting must be submitted by November 18, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0268 using the Federal eRulemaking Portal at *http://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. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments

We view 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 *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to 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 *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

We are not planning to hold a public meeting but 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
GLPA Great Lakes Pilotage Authority (Canadian)
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
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. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[1] which requires U.S. vessels operating ''on register''[2] 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 notice of proposed rulemaking (NPRM) is to propose new base pilotage rates and surcharges for training and propose new methodology in projecting pilotage rates. This includes proposals to adjust the surcharge provision to stop collecting funds once the assigned value has been recovered for the season; modify the regulations to review pilot compensation once every 10 years, with cost-of-living adjustments added annually between reviews; rename Return on Investment as Working Capital Fund to better clarify the intent of this step; and move the audit deadline from April to January of each year in order to capture expenses in the rate sooner and to eliminate 1 year from the current 3-year lag in expenses being recognized in the rate. The new methodology in proposing rates changes pilot demand from peak to seasonal.

In addition to these changes to the ratemaking process, the Coast Guard proposes adding pilots to support a mandatory change point on the Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY. We further propose to amend the regulation regarding delays so that cancellation charges can be assessed in an appropriate manner. Finally, we are seeking public comment on how we should proceed with weighting factors.

IV. Background

The vessels affected by this NPRM are those engaged in foreign trade upon the U.S. waters of the Great Lakes. United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[6]

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage (''the Director'') to operate a pilotage pool. The Coast Guard does not control the actual compensation that pilots receive. The actual compensation is determined by the district associations, each of which uses different compensation practices.

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

Areas 1, 5, and 7 have been designated by Presidential Proclamation[7] 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

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

[2] ''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.

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

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

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

[6] 46 U.S.C. 9302. A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

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

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." [8]

The Coast Guard is required to establish new pilotage rates by March 1 of each year, employing a full ratemaking at least once every 5 years and an annual review and adjustment in the intervening years.[9] The Coast Guard will continue to review rates annually until we can stabilize the rates and ensure pilotage association revenues are in line with projections.

In 2016, we revised our ratemaking methodology to improve the ratemaking process. Some of the changes proposed in this document further refine the 2016 methodology.

V. Discussion of Proposed Rate Changes

We propose new rates, and surcharges under 46 CFR 401.401, for 2017. This section discusses the proposed rates using the ratemaking steps provided in 46 CFR part 404. We reviewed the independent accountant's financial reports for each association's 2014 expenses and revenues. Those reports, which include pilot comments on draft versions and the accountant's response to those comments, appear in the docket.[10] This year, we have reorganized the layout of this proposed rule to address the ratemaking steps for each pilotage district individually. This is only a formatting change to make the proposed rule easier to follow. We begin with District One, and some explanations in the section on District One will apply to similar changes in the other Districts.

A. District One

Recognize previous year's operating expenses (§ 404.101). First, we reviewed and accepted the accountant's final findings on the 2014 audit of association expenses.

Table 1 shows District One's recognized expenses.

TABLE 1—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2014	District One		Total
	Designated	Undesignated	
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$302,547	$228,222	$530,769
Applicant Pilot subsistence/travel	0	12,996	12,996
License insurance	20,231	22,480	42,711
Applicant Pilot license insurance	0	1,760	1,760
Payroll taxes	78,067	64,130	142,197
Applicant Pilot payroll taxes	0	0	0
Other	479	378	857
Total other pilotage costs	401,324	329,966	731,290
Pilot Boat and Dispatch Costs:			
Pilot boat expense	130,741	103,173	233,914
Dispatch expense	0	0	0
Payroll taxes	9,797	7,732	17,529
Total pilot and dispatch costs	140,538	110,905	251,443
Administrative Expenses:			
Legal—general counsel	2,173	1,505	3,678
Legal—shared counsel (K&L Gates)	8,783	6,932	15,715
Legal—USCG litigation	12,794	10,098	22,892
Insurance	21,829	17,226	39,055
Employee benefits	7,570	5,974	13,544
Payroll taxes	5,281	4,167	9,448
Other taxes	7,262	5,731	12,993
Travel	648	512	1,160
Depreciation/auto leasing/other	48,094	31,820	79,914
Interest	13,713	10,821	24,534
APA Dues	12,444	11,996	24,440
Utilities	8,916	418	9,334
Salaries	52,121	41,130	93,251
Accounting/Professional fees	5,142	4,058	9,200
Pilot Training	6,427	5,074	11,501
Applicant Pilot training	0	0	0
Other	8,866	6,546	15,412
Total Administrative Expenses	222,063	164,008	386,071
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	763,925	604,879	1,368,804
Proposed Adjustments (Independent CPA):			
Pilot subsistence/travel	−15,712	−12,401	−28,113
Payroll taxes	−87	−68	−155
Applicant Pilot payroll taxes	0	2,347	2,347
TOTAL CPA ADJUSTMENTS	−15,799	−10,122	−25,921

[8] 46 U.S.C. 9302(a)(1)(B).

[9] 46 U.S.C. 9303(f).

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

TABLE 1—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2014	District One Designated St. Lawrence River	District One Undesignated Lake Ontario	Total
Proposed Adjustments (Director):			
APA Dues	−1,867	−1,799	−3,666
2015 Surcharge Adjustment *	−92,766	−72,887	−165,653
Legal—shared counsel (K&L Gates)	−8,783	−6,932	−15,715
Legal—USCG litigation	−12,794	−10,098	−22,892
TOTAL DIRECTOR'S ADJUSTMENTS	−116,209	−91,717	−207,926
Total Operating Expenses (OpEx + Adjustments)	631,917	503,040	1,134,957

* District One collected $493,682 with an authorized 10% surcharge in 2015. The adjustment represents the difference between the collected amount and the authorized amount of $328,029 authorized in the 2015 final rule.

Project next year's operating expenses, adjusting for inflation or deflation (§ 404.102). We based our inflation adjustments on the Bureau of Labor Statistics' (BLS) data from the Consumer Price Index for the Midwest Region of the United States,[11] and reports from the Federal Reserve.[12] The adjustments for District One are shown in Table 2.

TABLE 2—INFLATION ADJUSTMENT, DISTRICT ONE

	District One Designated	District One Undesignated	Total
Total Operating Expenses (Step 1)	$631,917	$503,040	$1,134,957
2015 Inflation Modification (@ −0.5%)	−3,160	−2,515	−5,675
2016 Inflation Modification (@2.2%)	13,833	11,012	24,844
2017 Inflation Modification (@2.1%)	13,494	10,742	24,237
Adjusted 2017 Operating Expenses	656,084	522,279	1,178,363

Determine number of pilots needed (§ 404.103). To determine the number of pilots needed for 2017, we reviewed the historic number of annual assignments in each area going back to 2007. Our demand model from the 2016 final rule allows pilots 10 days of recuperative rest each month between mid-April and mid-November, in order to better mitigate long-term fatigue. A U.S. registered pilot may spend several days in various ports in between assignments, which is not considered recuperative rest.

In 2016, we examined peak staffing primarily through an analysis of the maximum number of trips needed through designated waters at the end of each season. We propose modifying our pilotage demand calculation to focus instead on the pilot work cycle, including elements such as travel, rest, pilot boat time, and other items in addition to time on the bridge of the ship, and the number of assignments we reasonably expect pilots to be able to complete during the 9-month shipping season instead of during peak pilotage demand. The rest standards apply from April 15 through November 15 of each shipping season, which are non-peak periods. Thus, of the 270 days of the shipping season,[13] a pilot would be available for assignment on 200 of those days.[14] During the opening and closing of the season, however, we expect all of the working pilots to be available. This is critical at the end of the season to prevent a ship from getting stuck in the system due to lock maintenance schedules. We invite comment on these assumptions and how this model might impact operations and the recruitment and retention of pilots.

Tables 3 through 7 examine our proposed staffing model. We begin our analysis with the pilot assignment cycle first discussed in the 2016 rulemaking.[15] The pilot assignment cycle outlines the time needed to perform an assignment from beginning to end. This is shown in Table 3.

TABLE 3—PILOT ASSIGNMENT CYCLE FOR DISTRICT ONE

Pilot assignment cycle	District One Area 1 (hours)	District One Area 2 (hours)
Average Through Transit Time *	10.8	11.0

[11] Available at *http://data.bls.gov/timeseries/CUUR0200SA0?data_tool=Xgtable*

[12] Available at *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm*

[13] Nine months per shipping season × 30 days per month.

[14] Two-hundred and seventy days per season minus 70 days rest (7 non-peak months × 10 days rest per month).

[15] 81 FR 11932, Figure 14.

TABLE 3—PILOT ASSIGNMENT CYCLE FOR DISTRICT ONE—Continued

Pilot assignment cycle	District One	
	Area 1 (hours)	Area 2 (hours)
Travel	3.2	4.6
Delay	0.7	0.9
Admin	0.5	0.5
Total Assignment	15.2	17.0
Mandatory Rest	10	10
Pilot Cycle (hours/assignment)	25.2	27.0

* Updated since 2016 to reflect average through transit time based on current speed and other conditions as provided by pilot associations.

Using this data, we calculate the maximum number of assignments a pilot could conduct each year under perfect conditions with demand evenly distributed throughout the shipping season. This information follows in Table 4.

TABLE 4—CALCULATION OF MAXIMUM ASSIGNMENTS FOR DISTRICT ONE

Pilot assignments	District One	
	Area 1	Area 2
Seasonal Availability Goal (hours)	4,800	4,800
Pilot Cycle (hours/assignment)	25.2	27
Max Assignments per Pilot	190	178

Our model uses this maximum figure to calculate a projected number of assignments for each pilot in the 2017 shipping season. At this time, we can neither track assignments electronically nor track individual pilot cycle times. Additionally, the projected number of assignments per pilot reflects only actual assignments and does not include time the pilot is standing by and waiting for the next assignment. This calculation is detailed in Table 5.

TABLE 5—PROJECTED ASSIGNMENTS PER PILOT IN DISTRICT ONE

Assignments per pilot	District One	
	Area 1 (hours)	Area 2 (hours)
Max Assignments per Pilots	190	178
Efficiency Adjustment *	0.5	0.5
Projected Assignments per Pilot	95	89

* Recommended starting ratio per the 2013 bridge hour study (on page 23), available in the docket.

Next, we examine the historic number of assignments over the last nine shipping seasons, by Area, in District One. This will inform our final pilot strength calculation. The number of pilot assignments is detailed in Table 6.

TABLE 6—HISTORIC NUMBER OF ASSIGNMENTS IN DISTRICT ONE

Historic number of assignments	District One	
	Area 1	Area 2
2007	708	558
2008	632	480
2009	361	434
2010	518	591
2011	500	634
2012	479	632
2013	490	598
2014	612	637
2015	593	589
Average Assignments	544	573

Finally, using the historic average number of assignments from the last nine shipping seasons (Table 6) and the projected assignments per pilot (Table 5), we are able to calculate the projected need for pilot strength for District One. This calculation is in Table 7. In all districts, when the calculation results in a fraction of a pilot, we round pilot numbers up to the nearest whole pilot. We do this to avoid shortening our demand calculation and also to compensate for the role of the district presidents as both working pilots and representatives of their associations. We believe the rounding is justified to meet the needs of the staffing model and also to ensure the presidents of the pilot associations are able to effectively engage in meetings and communications with stakeholders throughout the Great Lakes region and the Coast Guard.

TABLE 7—PROJECTED PILOTS NEEDED IN DISTRICT ONE

Pilots needed	District One	
	Area 1 (hours)	Area 2 (hours)
Historic Average Assignments	544	573
Projected Assignments per Pilot	95	89
Projected Pilots Needed (unrounded)	5.71	6.44
Projected Pilots Needed (rounded)	6	7

Based on these tables, District One has a projected pilot need of 13 pilots for the 2017 season.

Proposed Mandatory Change Point Affecting Pilot Need

However, we also propose to add a mandatory change point in the vicinity of Iroquois Lock. In the 2016 NPRM, we proposed making Iroquois Lock a mandatory change point to enhance safety by mitigating fatigue on long pilotage runs. 80 FR 54487. However, we did not implement that proposal because the GLPA and Saint Lawrence Seaway Pilots Association informed us that they needed additional time to recruit, hire, and train additional pilots to implement this change. We propose adding the language, ''The Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY, at the opening of the 2017 shipping season,'' to the list of mandatory change points in section 401.450. The transit between Snell Lock and Cape Vincent takes about 11 hours under ideal circumstances. We want to limit a U.S. registered pilot's assignment to 8 hours in designated waters in order to mitigate fatigue. Establishing this mandatory change point allows us to accomplish this goal.

Establishing this change point will increase the number of assignments and pilots needed in Area 1. Currently, about 40 percent of the assignments change at Iroquois Lock due to the night relief working rules or a slow moving vessel. We have historically counted this as one assignment even though two pilots are used to complete this assignment. For the purposes of calculating the number of additional assignments, we assume that 40 percent of trips currently switch pilots, while 60 percent will require a new pilot assignment. The historical average number of pilot assignments in District One, Area 1, is 544 per year (Table 6). If 60 percent of these will require an additional pilot assignment due to the new change point, 326 additional pilot assignments will be needed.[16] From Table 5, pilots in this area average 95 assignments per season, resulting in the need for an additional 3.4 pilots to cover the additional assignments. Again, we round the calculated number of pilots needed to the next whole pilot to help ensure an adequate supply of pilots available for assignment.

Based on these calculations, we propose four additional pilots to handle the increased number of assignments. The Saint Lawrence Seaway Pilots Association has communicated that it will have the necessary number of pilots trained at the beginning of the 2017 season. Therefore, we are proposing the addition of these pilots in the 2017 rulemaking, resulting in a total number of 17 pilots needed for District One (13 from Table 7 to handle existing demand, plus 4 to account for the Iroquois Lock change point).

We have coordinated with the Saint Lawrence Seaway Management Corporation (SLSMC), the Great Lakes Pilots Authority, and the Saint Lawrence Seaway Pilots Association, and concluded that the addition of the change point will not require capital expenses. The SLSMC will continue to allow the U.S. and Canadian registered pilots to use the Iroquois Lock for pilot changes. This avoids the need to purchase a new pilot boat and dock, as well as additional labor for support staff. If this changes, we will require District One to provide a plan for procuring a new pilot boat, dock, and additional support staff needed for this new change point, so that these costs can be included in a ratemaking.

We understand that District One plans to have all applicant pilots trained and working for the 2017 season. Therefore, Table 8 shows zero applicants, and consequently, no applicant surcharge for District One.

TABLE 8—PILOTS NEEDED; PILOTS PROJECTED TO BE WORKING

	District One
Needed pilots, period for which 2017 rates are in effect	17
Working pilots projected for 2017	17
Applicant pilots for 2017	0

Determine target pilot compensation (§ 404.104). In the 2016 ratemaking, we attempted to align the compensation of U.S. registered pilots with the Canadian registered pilots of the GLPA and set a target compensation of $326,114. We are proposing to freeze target compensation for 2017 at the 2016 levels for the following reasons. First, the methodology used to align target compensation in the 2016 ratemaking used the foreign exchange rate between the Canadian and U.S. dollar to convert Canadian compensation to United States compensation. The exchange rate has changed substantially from 1.149CAD:1USD in 2014 to 1.329CAD:1USD in 2015.[17] This is a change of nearly 20 percent. The volatility in exchange rates is dependent on factors external to the ratemaking, and we do not believe it is in the public interest to lower target pilot compensation by nearly 20 percent based on foreign exchange. Second, the system needs target pilot compensation stability in order to achieve and maintain workforce stability. Finally, the most challenging portion of this analysis is the conversion of Canadian benefits into roughly equivalent United States benefits. For example, the U.S. registered pilots invest their own money

[16] We calculated 544 average assignments per year × .6 will require a new pilot assignment.

[17] See *https://www.irs.gov/individuals/international-taxpayers/yearly-average-currency-exchange-rates*.

to own and operate the pilot associations, whereas the Canadian registered pilots do not. The Canadian registered pilots have a defined, government-backed pension, guaranteed time off, sick days, personal days, and medical benefits that require no out-of-pocket expenses. Our discussions with stakeholders, including the Canadian government, pilots, and industry, have highlighted the challenges of comparing benefits across international boundaries. We are not convinced that a single conversion from Canadian currency to United States currency properly accounts for the level of benefits provided to the Canadian registered pilots. We believe the most appropriate solution is to launch an independent, third-party study to examine pilot compensation and recommend a total compensation number. The Coast Guard is in the early stages of pursuing this study.

While we await the results of an independent third-party study, we propose maintaining the 2016 level for target pilot compensation for this ratemaking. The calculations of target pilot compensation for District One are displayed in Table 9.

TABLE 9—DISTRICT ONE TARGET PILOT COMPENSATION

	District One		Total
	Designated	Undesignated	
Target Pilot Compensation	$326,114	$326,114	$326,114
Number of Pilots (Step 3)	10	7	17
Total Target Pilot Compensation	$3,261,142	$2,282,799	$5,543,941

Determine working capital fund (proposed § 404.105). We propose changing the term for this step from ''Project return on investment'' to ''Determine working capital fund'' based on several discussions with the shippers, ports, and agents. We agree with the shippers, ports, and agents that this is more than a return on the monies the pilots have invested in their infrastructure. The intent of this step is to provide the pilots with working capital for future expenses associated with capital improvements, technology investments, and future training needs, with the goal of eliminating the need for surcharges. Even though we propose changing the name of this step, we do not propose changing the calculation.

We calculate the working capital fund by multiplying the 2014 average rate of return for new issues of high-grade corporate securities and Total Expenses (Adjusted Operating Expenses from Step 2 plus Total Target Pilot Compensation from Step 4). We use the Moody's AAA bond rate information to determine the average annual rate of return for new issues of high-grade corporate securities. The 2014 average annual rate of return for new issues of high-grade corporate securities was 4.16 percent.[18] The working capital fund calculation is shown in Table 10.

TABLE 10—DISTRICT ONE WORKING CAPITAL FUND CALCULATION

	District One		Total
	Designated	Undesignated	
Adjusted Operating Expenses (Step 2)	$656,084	$522,279	$1,178,363
Total Target Pilot Compensation (Step 4)	3,261,142	2,282,799	5,543,941
Total 2017 Expenses	3,917,226	2,805,078	6,722,304
Working Capital Fund (4.16%)	162,957	116,691	279,648

Project needed revenue for next year (proposed § 404.106). Table 11 shows District One's needed revenue, which is determined by adding the proposed § 404.102 operating expense, the proposed § 404.104 total target compensation, and the proposed § 404.105 working capital fund.

TABLE 11—REVENUE NEEDED

	District One		Total
	Designated	Undesignated	
Adjusted Operating Expenses (Step 2)	$656,084	$522,279	$1,178,363
Total Target Pilot Compensation (Step 4)	3,261,142	2,282,799	5,543,941
Working Capital Fund (Step 5)	162,957	116,691	279,648
Total Revenue Needed	4,080,183	2,921,770	7,001,952

Make initial base rate calculations (proposed § 404.107). To make our initial base rate calculations, we first establish a multi-year base period from which we can draw available and reliable data on actual pilot hours

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

worked in each district's designated and undesignated waters. For the 2017 rates, we propose using data covering 2007 through 2015. Table 12 shows calculations of the average number of bridge hours over the last 9 shipping seasons.

TABLE 12—HOURS WORKED, 2007 THROUGH 2015, DISTRICT ONE

	District One	
	Designated (hours)	Undesignated (hours)
2015	5,743	6,667
2014	6,810	6,853
2013	5,864	5,529
2012	4,771	5,121
2011	5,045	5,377
2010	4,839	5,649
2009	3,511	3,947
2008	5,829	5,298
2007	6,099	5,929
Average	5,390	5,597

We are monitoring bridge hours and revenue projections for the season, and there is a great deal of variation in the system. Through the end of May 2016, projected bridge hours for the entire shipping season were up 45 percent in District One compared to the 9-year average, while revenue projection for the same period was only up 15 percent compared to our projected revenue needed. This suggested that the District One rate continued to under-generate needed revenue. However, by the end of July 2016, projected bridge hours for the entire shipping season were up 8.2 percent as compared to the 9-year average, and revenue projection was up 16 percent as compared to projected revenue needed, which suggests slight over-generation of revenue. We will continue to monitor traffic and revenue projections throughout the shipping season to see if any additional changes are needed.

Table 13 calculates new rates by dividing each association's projected needed revenue, from § 404.106, by the average hours shown in Table 12 and rounding to the nearest whole number.

TABLE 13—RATE CALCULATIONS

	District One	
	Designated	Undesignated
Revenue Needed (Step 6)	$4,080,183	$2,921,770
Average time on task 2007–2015	5,390	5,597
Hourly Rate	$757	$522

We now examine the calculations of the other two pilotage districts for 2017.

B. District Two

Recognize previous year's operating expenses (§ 404.101). We reviewed and accepted the accountant's final findings on the 2014 audits of association expenses.

Table 14 shows District Two's recognized expenses.

TABLE 14—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2014	District Two		Total
	Undesignated	Designated	
	Lake Erie	SES to Port Huron	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$148,424	$222,635	$371,059
Applicant Pilot subsistence/travel	9,440	14,160	23,600
License insurance	52,888	79,333	132,221
Applicant Pilot license insurance	5,738	8,608	14,346
Payroll taxes	76,903	115,354	192,257
Applicant Pilot payroll taxes	8,344	12,516	20,860
Other	1,053	1,579	2,632
Total other pilotage costs	302,790	454,185	756,975
Pilot Boat and Dispatch Costs:			
Pilot boat expense	173,145	259,718	432,863
Dispatch expense	10,080	15,120	25,200
Employee benefits	72,662	108,992	181,654
Payroll taxes	8,472	12,707	21,179
Total pilot and dispatch costs	264,358	396,538	660,896
Administrative Expenses:			
Legal—general counsel	2,680	4,020	6,700
Legal—shared counsel (K&L Gates)	4,984	7,476	12,461
Legal—USCG litigation	8,371	12,557	20,928
Office rent	26,275	39,413	65,688
Insurance	9,909	14,863	24,772
Employee benefits	23,002	34,504	57,506
Payroll taxes	5,001	7,501	12,502

TABLE 14—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2014	District Two Undesignated Lake Erie	District Two Designated SES to Port Huron	Total
Other taxes	21,179	31,769	52,948
Depreciation/auto leasing/other	17,784	26,677	44,461
Interest	3,298	4,948	8,246
APA Dues	8,664	12,996	21,660
Utilities	15,429	23,144	38,573
Salaries	46,008	69,013	115,021
Accounting/Professional fees	9,410	14,115	23,525
Pilot Training	0	0	0
Other	11,343	17,012	28,355
Total Administrative Expenses	213,339	320,007	533,346
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	780,488	1,170,729	1,951,217
Proposed Adjustments (Independent CPA):			
Depreciation/auto leasing/other	3,322	4,982	8,304
TOTAL CPA ADJUSTMENTS	3,322	4,982	8,304
Proposed Adjustments (Director):			
APA Dues	−1,300	−1,949	−3,249
2015 Surcharge Adjustment*	−85,782	−128,672	−214,454
Legal—shared counsel (K&L Gates)	−4,984	−7,476	−12,461
Legal—USCG litigation	−8,371	−12,557	−20,928
TOTAL DIRECTOR'S ADJUSTMENTS	−100,436	−150,655	−251,092
Total Operating Expenses (OpEx + Adjustments)	683,374	1,025,056	1,708,429

* District Two collected $540,284 with an authorized 10% surcharge in 2015. The adjustment represents the difference between the collected amount and the $325,830 authorized in the 2015 final rule.

Project next year's operating expenses, adjusting for inflation or deflation (§ 404.102). We based our inflation adjustments on BLS data from the Consumer Price Index for the Midwest Region of the United States,[19] and reports from the Federal Reserve.[20] The adjustments for District Two are shown in Table 15.

TABLE 15—INFLATION ADJUSTMENT, DISTRICT TWO

	District Two Undesignated	District Two Designated	Total
Total Operating Expenses (Step 1)	$683,374	$1,025,056	$1,708,429
2015 Inflation Modification (@ −0.5%)	−3,417	−5,125	−8,542
2016 Inflation Modification (@2.2%)	14,959	22,438	37,398
2017 Inflation Modification (@2.1%)	14,593	21,890	36,483
Adjusted 2017 Operating Expenses	709,509	1,064,259	1,773,767

Determine number of pilots needed (§ 404.103). To determine the number of pilots needed for 2017 in District Two, we followed the same steps discussed earlier in this proposed rule for District One. The resulting calculations follow in Tables 16 through 20.

TABLE 16—PILOT ASSIGNMENT CYCLE FOR DISTRICT TWO

Pilot assignment cycle	District Two Area 4 (hours)	District Two Area 5 (hours)
Average Through Transit Time *	17.0	6.5
Travel	4.6	3.2
Delay	0.7	0.4
Admin	0.5	0.5

[19] Available at *http://data.bls.gov/timeseries/CUUR0200SA0?data_tool=Xgtable.*

[20] Available at *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm.*

TABLE 16—PILOT ASSIGNMENT CYCLE FOR DISTRICT TWO—Continued

Pilot assignment cycle	District Two	
	Area 4 (hours)	Area 5 (hours)
Total Assignment	22.8	10.6
Mandatory Rest	10	10
Pilot Cycle (hours/assignment)	32.8	20.6

* Updated since 2016 to reflect average through transit time based on current speed and other conditions as provided by pilot associations.

TABLE 17—CALCULATION OF MAXIMUM ASSIGNMENTS FOR DISTRICT TWO

Pilot assignments	District Two	
	Area 4	Area 5
Seasonal Availability Goal (hours)	4800	4800
Pilot Cycle (hours/assignment)	32.8	20.6
Max Assignments per Pilot	146	233

TABLE 18—PROJECTED ASSIGNMENTS PER PILOT IN DISTRICT TWO

Assignments per pilot	District Two	
	Area 4	Area 5
Max Assignments per Pilots	146	233
Efficiency Adjustment *	0.5	0.5
Projected Assignments per Pilot	73	117

* Recommended starting ratio per the 2013 bridge hour study (on page 23), available in the docket.

TABLE 19—HISTORIC NUMBER OF ASSIGNMENTS IN DISTRICT TWO

Historic number of assignments	District Two	
	Area 4	Area 5
2007	510	866
2008	444	616
2009	290	471
2010	460	821
2011	331	598
2012	351	603
2013	404	693
2014	624	1043
2015	576	946
Average Assignments	443	740

TABLE 20—PROJECTED PILOTS NEEDED IN DISTRICT TWO

Pilots needed	District Two	
	Area 4	Area 5
Historic Average Assignments	443	740
Projected Assignments per Pilot	73	117
Projected Pilots Needed (unrounded)	6.06	6.35
Projected Pilots Needed (rounded)	7	7

We round the calculated number of total pilots for District Two to the next whole pilot to help ensure that an adequate supply of pilots is available for assignment. Based on these tables, District Two has a projected need for 14 pilots for the 2017 season. At the beginning of the 2017 shipping season, they plan to have 13 working pilots and 2 applicants. We believe the second applicant is necessary to prepare for future retirements, given the extended training periods associated with new pilots. Currently, 4 of the pilots in District Two are over 62 years of age. These 4 pilots represent nearly 30 percent of the pilot strength in this association. Waiting until these pilots retire to replace them will result in significant delays. Therefore, we propose authorizing a surcharge in 2017, which we discuss in section ''E. Surcharges'' later in this preamble, to fund two applicant pilots in District Two.

TABLE 21—PILOTS NEEDED; PILOTS PROJECTED TO BE WORKING

	District Two
Needed pilots, period for which 2017 rates are in effect	14
Working pilots projected for 2017	13
Applicant pilots for 2017	2

Determine target pilot compensation (§ 404.104). Similar to our discussion and proposal for District One, for the 2017 NPRM, we propose maintaining the 2016 compensation levels. Thus, target pilot compensation for 2017 would be $326,114. Total target pilot compensation for District Two is calculated in Table 22.

TABLE 22—DISTRICT TWO TARGET PILOT COMPENSATION

	District Two		Total
	Undesignated	Designated	
Target Pilot Compensation	$326,114	$326,114	$326,114
Number of Pilots (Step 3)	6	7	13
Total Target Pilot Compensation	$1,956,685	$2,282,799	$4,239,485

Determine working capital fund (proposed § 404.105). The 2014 average annual rate of return for new issues of high-grade corporate securities was 4.16 percent.[21] We apply that rate to District Two's projected total operating and compensation expenses (from §§ 404.102 and 404.104) to determine the allowed working capital fund for the shipping season, as shown in Table 23.

TABLE 23—DISTRICT TWO WORKING CAPITAL FUND CALCULATION

	District Two		Total
	Undesignated	Designated	
Adjusted Operating Expenses (Step 2)	$709,509	$1,064,259	$1,773,767
Total Target Pilot Compensation (Step 4)	1,956,685	2,282,799	4,239,485
Total 2017 Expenses	2,666,194	3,347,059	6,013,252
Working Capital Fund (4.16%)	110,914	139,238	250,151

Project needed revenue for next year (proposed § 404.106). Table 24 shows District Two's needed revenue, determined by adding the proposed § 404.102 operating expense, the proposed § 404.104 total target compensation, and the proposed § 404.105 working capital fund.

TABLE 24—REVENUE NEEDED

	District Two		Total
	Undesignated	Designated	
Adjusted Operating Expenses (Step 2)	$709,509	$1,064,259	$1,773,767
Total Target Pilot Compensation (Step 4)	1,956,685	2,282,799	4,239,485
Working Capital Fund (Step 5)	110,914	139,238	250,151
Total Revenue Needed	2,777,108	3,486,296	6,263,403

Make initial base rate calculations (proposed § 404.107). To make our initial base rate calculations, we first establish a multi-year base period from which available and reliable data for actual pilot hours worked in each district's designated and undesignated waters can be drawn. For the 2017 rates, we propose using data covering 2007

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

through 2015. Table 25 calculates the average number of bridge hours over the last 9 shipping seasons.

TABLE 25—HOURS WORKED, 2007 THROUGH 2015, DISTRICT TWO

	District Two	
	Undesignated (hours)	Designated (hours)
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
2010	5,565	5,235
2009	3,386	3,017
2008	4,844	3,956
2007	6,223	6,049
AVERAGE	5,174	4,842

We are monitoring bridge hours and revenue projections for the season, and there is a great deal of variation in the system. Through the end of May 2016, projected bridge hours for the entire shipping season were up 22 percent in District Two compared to the 9-year average, and revenue projection was up 17 percent compared to projected revenue needed. This suggested a robust correlation between traffic and revenue in District Two. However, by the end of July 2016, projected bridge hours were down 3.4 percent as compared to the 9-year average, while revenue projection was up 21 percent compared to projected revenue needed, which suggests over-generation of revenue. We will continue to monitor traffic and revenue projections throughout the shipping season to see if any additional changes are needed.

Table 26 calculates new rates by dividing District Two's projected needed revenue, from § 404.106, by the average hours shown in Table 25 and rounding to the nearest whole number.

TABLE 26—RATE CALCULATIONS

	District Two	
	Undesignated	Designated
Revenue Needed (Step 6)	$2,777,108	$3,486,296
Average time on task 2007–2015	5,174	4,842
Hourly Rate	$537	$720

C. District Three

Recognize previous year's operating expenses (§ 404.101). We reviewed and accepted the accountant's final findings on the 2014 audits of association expenses.

Table 27 shows District Three's recognized expenses.

TABLE 27—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported Expenses for 2014	District Three		Total
	Undesignated	Designated	
	Lakes Huron, Michigan, and Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$424,935	$141,645	$566,580
Applicant pilot subsistence/travel	24,608	8,203	32,810
License insurance	14,304	4,768	19,072
Payroll taxes	110,567	36,856	147,423
Applicant pilot payroll taxes	9,082	3,027	12,109
Other	12,268	4,090	16,358
Total other pilotage costs	595,764	198,589	794,353
Pilot Boat and Dispatch Costs:			
Pilot boat costs	593,360	197,787	791,147
Dispatch costs	133,787	44,596	178,383
Payroll taxes	31,432	10,477	41,909

TABLE 27—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported Expenses for 2014	District Three: Undesignated — Lakes Huron, Michigan, and Superior	District Three: Designated — St. Mary's River	Total
Total pilot and dispatch costs	758,579	252,860	1,011,439
Administrative Expenses:			
Legal—general counsel	15,386	5,129	20,515
Legal—shared counsel (K&L Gates)	15,900	5,300	21,201
Legal—USCG litigation	23,422	7,807	31,229
Office rent	7,425	2,475	9,900
Insurance	11,050	3,683	14,733
Employee benefits	113,890	37,964	151,854
Other taxes	129	43	173
Depreciation/auto leasing/other	28,802	9,601	38,403
Interest	2,858	953	3,811
APA Dues	20,235	6,745	26,980
Dues and subscriptions	3,975	1,325	5,300
Utilities	33,083	11,028	44,111
Salaries	95,577	31,859	127,437
Accounting/Professional fees	27,492	9,164	36,656
Pilot Training	0	0	0
Other	9,318	3,106	12,424
Total Administrative Expenses	408,542	136,182	544,727
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,762,885	587,631	2,350,518
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	−15,595	−5,198	−20,793
Payroll taxes	5,949	1,983	7,931
Pilot boat costs	−62,748	−20,916	−83,664
Legal—shared counsel (K&L Gates)	−1,590	−530	−2,120
Dues and subscriptions	−3,975	−1,325	−5,300
Other expenses	−375	−125	−500
TOTAL CPA ADJUSTMENTS	−78,334	−26,111	−104,445
Proposed Adjustments (Director):			
APA Dues	−3,035	−1,012	−4,047
Surcharge Adjustment*	−216,734	−72,245	−288,979
Legal—shared counsel (K&L Gates)	−14,310	−4,770	−19,080
Legal—USCG litigation	−23,422	−7,807	−31,229
TOTAL DIRECTOR'S ADJUSTMENTS	−257,502	−85,834	−343,335
Total Operating Expenses (OpEx + Adjustments)	1,427,050	475,687	1,903,738

*District Three collected $615,929 with an authorized 10% surcharge in 2015. The adjustment represents the difference between the collected amount and the authorized amount of $326,950 authorized in the 2015 final rule.

Project next year's operating expenses, adjusting for inflation or deflation (§ 404.102). We based our inflation adjustments on BLS data from the Consumer Price Index for the Midwest Region of the United States,[22] and reports from the Federal Reserve.[23] The adjustments for District Three are shown in Table 28.

TABLE 28—INFLATION ADJUSTMENT, DISTRICT THREE

	District Three: Undesignated	District Three: Designated	Total
Total Operating Expenses (Step 1)	$1,427,050	$475,687	$1,902,738
2015 Inflation Modification (@ −0.5%)	−7,135	−2,378	−9,514
2016 Inflation Modification (@2.2%)	31,238	10,413	41,651
2017 Inflation Modification (@2.1%)	30,474	10,158	40,632

[22] Available at *http://data.bls.gov/timeseries/CUUR0200SA0?data_tool=Xgtable*.

[23] Available at *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm*.

TABLE 28—INFLATION ADJUSTMENT, DISTRICT THREE—Continued

	District Three		Total
	Undesignated	Designated	
Adjusted 2017 Operating Expenses	1,481,627	493,879	1,975,506

Determine number of pilots needed (§ 404.103). To determine the number of pilots needed for 2017 in District Three, we followed the same steps discussed earlier in this proposed rule for Districts One and Two. The resulting calculations follow in Tables 29 through 33.

TABLE 29—PILOT ASSIGNMENT CYCLE FOR DISTRICT THREE

Pilot assignment cycle	District Three		
	Area 6 (hours)	Area 7 (hours)	Area 8 (hours)
Average Through Transit Time *	22.5	7.1	21.6
Travel	2.4	3.6	3.7
Delay	1	0.3	3.3
Admin	0.5	0.5	0.5
Total Assignment	26.4	11.5	29.1
Mandatory Rest	10	10	10
Pilot Cycle (hours/assignment)	36.4	21.5	39.1

* Although transit times in Districts One and Two have been updated based on actual conditions, no similar change was required to reflect transit times in District Three.

TABLE 30—CALCULATION OF MAXIMUM ASSIGNMENTS FOR DISTRICT THREE

Pilot assignments	District Three		
	Area 6	Area 7	Area 8
Seasonal Availability Goal (hours)	4,800	4,800	4,800
Pilot Cycle (hours/assignment)	36.4	21.5	39.1
Max Assignments per Pilot	132	223	123

TABLE 31—PROJECTED ASSIGNMENTS PER PILOT IN DISTRICT THREE

Assignments per pilot	District Three		
	Area 6	Area 7	Area 8
Max Assignments per Pilots	132	223	123
Efficiency Adjustment *	0.5	0.5	0.5
Projected Assignments per Pilot	66	112	61

* Recommended starting ratio per the 2013 bridge hour study (on page 23), available in the docket.

TABLE 32—HISTORIC NUMBER OF ASSIGNMENTS IN DISTRICT THREE

Historic number of assignments	District Three		
	Area 6	Area 7	Area 8
2007	681	794	478
2008	423	309	252
2009	352	231	275
2010	547	352	338
2011	460	228	223
2012	436	267	243
2013	464	315	322
2014	729	426	575
2015	644	412	421
Average Assignments	526	370	347

TABLE 33—PROJECTED PILOTS NEEDED IN DISTRICT THREE

Pilots needed	District Three		
	Area 6	Area 7	Area 8
Historic Average Assignments	526	370	347
Projected Assignments per Pilot	66	112	61
Projected Pilots Needed (unrounded)	7.98	3.32	5.66
Projected Pilots Needed (rounded)	8	4	6

We round the calculated number of pilots needed by Area to the next whole pilot to help ensure an adequate supply of pilots are available for assignments. Based on these tables, District Three has a projected pilot need of 18 pilots for the 2017 season. However, at the beginning of the 2017 shipping season, they plan to have 15 working and registered pilots supplemented by 7 applicants. We believe the applicants are necessary to prepare for future retirements given the extended training periods associated with new pilots. Currently, 6 of the pilots who are trained or registered in District Three are over 61 years of age. These 6 pilots represent 30 percent of the current pilot strength for District Three, which is already less than the 18 pilots projected to be needed in 2017. If we wait until these pilots retire to begin replacing them, the system will experience significant delays due to a lack of available pilots. Therefore, we propose authorizing a surcharge, which we discuss in section E, below, to fund seven applicant pilots in District Three.

TABLE 34—PILOTS NEEDED; PILOTS PROJECTED TO BE WORKING

	District Three
Needed pilots, period for which 2017 rates are in effect	18
Working pilots projected for 2017	15
Applicant pilots for 2017	7

Determine target pilot compensation (§ 404.104). Similar to our discussion and proposal for Districts One and Two, we propose maintaining the 2016 compensation levels. Thus, target pilot compensation for 2017 would be $326,114. Total target pilot compensation for District Three is calculated in Table 35.

TABLE 35—DISTRICT THREE TARGET PILOT COMPENSATION

	District Three		Total
	Undesignated	Designated	
Target Pilot Compensation	$326,114	$326,114	$326,114
Number of Pilots (Step 3)	11	4	15
Total Target Pilot Compensation	$3,587,256	$1,304,457	$4,891,713

Determine working capital fund (proposed § 404.105). The 2014 average annual rate of return for new issues of high-grade corporate securities was 4.16 percent.[24] We apply that rate to District Three's projected total operating and compensation expenses (from §§ 404.102 and 404.104) to determine the allowed working capital fund for the shipping season, as shown in Table 36.

TABLE 36—DISTRICT THREE WORKING CAPITAL FUND CALCULATION

	District Three		Total
	Undesignated	Designated	
Adjusted Operating Expenses (Step 2)	$1,481,627	$493,879	$1,975,506
Total Target Pilot Compensation (Step 4)	3,587,256	1,304,457	4,891,713
Total 2016 Expenses	5,068,883	1,798,336	6,867,219
Working Capital Fund (4.16%)	210,866	74,811	285,676

Project needed revenue for next year (proposed § 404.106). Table 37 shows District Three's needed revenue, which is determined by adding the proposed § 404.102 operating expense, the proposed § 404.104 total target compensation, and the proposed § 404.105 working capital fund.

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

TABLE 37—REVENUE NEEDED

	District Three		Total
	Undesignated	Designated	
Adjusted Operating Expenses (Step 2)	$1,481,627	$493,879	$1,975,506
Total Target Pilot Compensation (Step 4)	3,587,256	1,304,457	4,891,713
Working Capital Fund (Step 5)	210,866	74,811	285,676
Total Revenue Needed	5,279,748	1,873,147	7,152,895

Make initial base rate calculations (proposed § 404.107). To make our initial base rate calculations, we first establish a multi-year base period from which available and reliable data for actual pilot hours worked in each district's designated and undesignated waters can be drawn. For the 2017 rates, we propose using data covering 2007 through 2015. Table 38 calculates the average number of bridge hours over the last nine shipping seasons.

TABLE 38—HOURS WORKED, 2007 THROUGH 2015, DISTRICT THREE

	District Three	
	Undesignated (hours)	Designated (hours)
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
2010	20,211	2,461
2009	12,520	1,820
2008	14,287	2,286
2007	24,811	5,944
Average	18,835	2,835

We are monitoring bridge hours and revenue projections for the season, and there is a great deal of variation in the system. Through the end of May 2016, projected bridge hours for the entire shipping season were down 10 percent in District Three as compared to the 9-year average, while revenue projection through May 2016 was up 9 percent compared to projected revenue needed. This suggested that the District Three rate was over-generating revenue. However, by the end of July 2016, projected bridge hours were up 23 percent as compared to the 9-year average, and revenue projection was up 19 percent as compared to projected revenue needed, which suggested a more robust correlation between traffic and revenue in District Three. We continue to monitor projections so that we can make changes if needed. In particular, we are considering removing the maximum ratio between designated and undesignated charges, which we established last year in § 404.107(b), if it appears to be artificially raising undesignated rates and lowering designated rates.

Table 39 calculates new rates by dividing District Three's projected needed revenue, from § 404.106, by the average hours shown in Table 38 and rounding to the nearest whole number.

TABLE 39—RATE CALCULATIONS

	District Three	
	Undesignated	Designated
Revenue Needed (Step 6)	$5,279,748	$1,873,147
Average time on task 2007–2015	18,835	2,835
Hourly Rate	$280	$661

D. Other Changes Affecting Ratemaking

Review and finalize rates (§ 404.108). In addition to the changes described earlier, we propose five additional changes for 2017 that will equally impact the pilot associations. First, we propose adding a requirement to the surcharge regulation in § 401.401. We propose that once a pilot association collects the amount of money allowable for recoupment, which is designated by the final rule, the pilot association's authorization to collect a surcharge for the remainder of that shipping season will terminate. This proposed change will prevent excess amounts from being recouped and should eliminate the need to make adjustments to the operating expenses for the following year. Turning to surcharges for 2017, we find that allowing associations to recoup necessary and reasonable training expenses, both to help achieve a full complement of needed pilots and to ensure skill maintenance and development for current pilots, will facilitate safe, efficient, and reliable pilotage, and is good cause for imposing a necessary and reasonable temporary surcharge, as authorized by 46 CFR 401.401.

In addition, we propose amending the cancellation charge provision in § 401.420(b) to ensure that it explicitly states that the minimum charge for a cancellation is 4 hours plus necessary and reasonable travel expenses for travel that occurs. Based on the feedback we received from the pilot associations, we believe the current language is not specific enough and will continue to cause confusion, as indicated by inquiries from both pilot associations and shipping agents. We view this charge as necessary to emphasize that pilots are a limited resource and encourage their efficient use. We are also removing ''after that pilot has begun travelling to the designated pickup place'' from § 401.420(b) to eliminate any confusion about the 4-hour minimum charge.

To expedite the recoupment of expenses, we also propose to adjust § 403.300(c) to require submission of an unqualified audit prepared in accordance with generally accepted accounting principles and all accompanying notes by January 31st of each year. This would require the pilot associations to complete their financial statements by January 24th in order to meet the January 31st deadline. Existing § 403.300(c) requires submission of an unqualified audit by April 1 of each year. Our goal is to allow our independent auditors to begin work much sooner and complete work on the third party audit in time for it to be used for the publication of the proposed rule that summer. This timeline would remove 1 year from the current 3-year gap between the actual expenses and their recoupment in the rate. We request comments regarding the feasibility of completing the required audits by January 31, and if it is not feasible, an explanation as to why and what other date would be appropriate.

We also propose the addition of new language in § 404.104 that would allow the Director to set compensation for a 10-year period to a compensation benchmark. The compensation benchmark would be based on the most relevant available non-proprietary information such as wage and benefit information from other pilotage groups. In the years in which a compensation benchmark is not set, target pilot compensation will be adjusted for inflation by using the CPI for the Midwest region or by a pre-determined amount that would be published prior to use. We believe this will promote target compensation stability and rate predictability.

The proposed changes to §§ 403.300(c) and 404.104 should assist the pilot associations with recruitment and retention and help the various stakeholders forecast budgets and pricing. These changes would apply only to the calculation of target pilot compensation; we do not propose any changes to the formula in which we use target pilot compensation to calculate the rate.

Finally, we seek public comment on how we should handle weighting factors in 46 CFR 401.400, which outlines the calculations for determining the weighting factors for a vessel subject to compulsory pilotage. This calculation determines which multiplication factor will be applied to the pilotage fees. We are not proposing any action in this proposed rule because we do not have sufficient data to make an informed decision.

The first option is to maintain the status quo. This would maintain the current weighting factors and continue to leave them out of the ratemaking calculation.

The second option for weighting factors is to remove them completely from the regulations and charge every vessel equally for pilotage service. This aligns with the current compensation model that a pilot should be compensated equally for their expertise across all areas of the Great Lakes. The ship's dimensions do not impact the experience and skill level of the pilot providing the service.

The third option is to incorporate weighting factors into the rulemaking through an additional step that examines and projects their impact on the revenues of the pilot associations. This might enable us to better forecast revenue, but it would add another variable to the projections in the rate methodology.

We request public comment specifically on which of these three options should be implemented for future ratemakings; in your comment, please explain why the option should be implemented.

E. Surcharges

Turning to surcharges for 2017, we find that allowing associations to recoup necessary and reasonable training expenses, both to help achieve a full complement of needed pilots and to ensure skill maintenance and development for current pilots, will facilitate safe, efficient, and reliable pilotage, and is good cause for imposing a necessary and reasonable temporary surcharge, as authorized by 46 CFR 401.401. For 2017, we anticipate that there will be two applicant pilots in District Two, and seven applicant pilots in District Three. Based on historic pilot costs, the stipend, per diem, and training costs for each applicant pilot are approximately $150,000 per shipping season. Thus, we estimate that the training expenses that each association will incur will be approximately $300,000 in District Two and $1,050,000 in District Three. Table 40 derives the proposed percentage surcharge for each district by comparing this estimate to each district's projected needed revenue.

TABLE 40—SURCHARGE CALCULATION BY DISTRICT

	District One	District Two	District Three
Projected Needed Revenue (§ 404.106)	$7,001,952	$6,263,403	$7,152,895
Anticipated Training Expenses	$0	$300,000	$1,050,000
Surcharge Needed *	0%	5%	15%

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

These surcharges would only be collected until the target amount is reached. This should eliminate the need to make adjustments to the operating expenses for the following year. We will ensure that these expenses are not included in future rulemakings in order to avoid double billing.

VI. Regulatory Analyses

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

This proposed rule has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB).

We developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis (RA) to be subject to change in consideration of public comments.

Table 41 summarizes the regulatory changes that are expected to have no costs, and any qualitative benefits associated with them. The table also includes proposed changes that affect portions of the methodology for calculating the proposed base pilotage rates. While these proposed changes affect the calculation of the rate, the costs of these changes are captured in the changes to the total revenue as a result of the proposed rate change (summarized in Table 42).

TABLE 41—REGULATORY CHANGES WITH NO COST OR COSTS CAPTURED IN THE PROPOSED RATE CHANGE

Proposed changes	Description	Basis for no costs	Benefits
Mandatory change point on the Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY.	Propose a mandatory change point on the Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY that would become effective at the beginning of the 2017 shipping season.	The addition of the change point will not require capital expenses. The only cost is for the new pilots, who are accounted for in the base pilotage rates and training surcharges (Table 43).	Staffing additional pilots will help meet the increased demand for pilots to handle the additional assignments anticipated to be caused by the new change point. Additional pilots due to this change point should also serve to mitigate any potential delays and any potential fatigue that would occur from high pilotage demand without them.
Demand model	Determine pilot demand using seasonal demand instead of peak demand.	Pilot staffing costs are accounted for in the base pilotage rates (Table 43).	More accurate estimate of the number of assignments we reasonably expect pilots to be able to complete during the 9-month shipping season instead of during peak pilotage demand.
Cancellation charges	Propose amending the cancellation charge provision in § 401.120(b) to ensure it explicitly states that the minimum charge for a cancellation is 4 hours plus necessary and reasonable travel expenses for that travel that occurs.	Clarification of existing text and current practice.	—Clarifies the current language to eliminate any potential confusion on the minimum charge for cancellations. —Clarification of the minimum charge ensures the recognition of pilots as a limited resource and encourages efficient use.
Surcharge provision	Propose adding a requirement to the surcharge regulation in § 401.401 to stop collecting funds once the assigned value has been recovered for the season.	Ensures the goal surcharge amount built into the year's rulemaking will not be surpassed, and prevents additional costs on industry.	Prevents excess amounts from being recouped from industry via the following year's rule.
Audit deadline	Propose to adjust § 403.300(c) to move the audit deadline from April 1 to January 31 of each year.	Adjusts the deadline for audit submission, but does not add additional work.	Allows independent auditors to begin work sooner and complete the audit in time for the proposed rule. This would eliminate 1 year from the current 3-year lag in expenses being recognized in the rate.
Rename Return on Investment	Propose renaming Return on Investment as Working Capital Fund.	Clarifies the intent of the fund but does not change the method of calculation. Costs are included in the total revenues.	Clarifies the intent of this fund.
Set Pilot compensation for a 10-year period.	Propose the addition of new language in § 404.104 that would allow the Director to set compensation for a 10-year period to a compensation benchmark.	Pilot staffing costs are accounted for in the base pilotage rates.	Promotes target compensation stability and rate predictability.

The following table summarizes the affected population, costs, and benefits of the regulatory requirements that are expected to have costs associated with them.

TABLE 42—REGULATORY ECONOMIC IMPACTS OF RATE CHANGE

Proposed change	Description	Affected population	Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 230 vessels journeying the Great Lakes system annually.	$2,664,574	—New rates cover an association's necessary and reasonable operating expenses. —Provides fair compensation, adequate training, and sufficient rest periods for pilots. —Ensures the association makes enough money to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we are adjusting the pilotage rates for the 2017 shipping season to generate for each district sufficient revenues to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate 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.

In addition to the increase in payments that would be incurred by shippers in all three districts from the previous year as a result of the proposed rate changes, we propose authorizing a temporary surcharge to allow the pilotage associations to recover training expenses that would be incurred in 2017. For 2017, we anticipate that there will be no applicant pilots in District One, two applicant pilots in District Two, and seven applicant pilots in District Three. With a training cost of $150,000 per pilot, we estimate that Districts Two and Three will incur $300,000 and $1,050,000 in training expenses, respectively. These temporary surcharges would generate a combined $1,350,000 in revenue for the pilotage associations. Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the payments made by shippers during the 2017 shipping season are estimated to be approximately $2,664,574 more than the payments that were estimated in 2016 (Table 43).[25]

A draft regulatory analysis follows.

The purpose of this rulemaking is to propose new base pilotage rates and surcharges for training. The last full ratemaking was concluded in 2016.

Affected Population

The shippers affected by these rate changes are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required to have pilots by 46 U.S.C. 9302. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to have a pilot.

We used 2013–2015 billing information from the 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. Using that period, we found that a total of 407 unique vessels used pilotage services over the years 2013 through 2015. These vessels had a pilot dispatched to the vessel and billing information was recorded in the GLPMS. The number of invoices per vessel ranged from a minimum of 1 invoice per year to a maximum of 65 invoices per year. Of these vessels, 383 were foreign-flagged vessels and 24 were U.S.-flagged. The U.S.-flagged vessels are not required to have a pilot per 46 U.S.C. 9302, but they can voluntarily choose to have a pilot. U.S.-flagged vessels may opt to have a pilot for varying reasons such as unfamiliarity with designated waters and ports, or for insurance purposes.

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 2013 through 2015 is the best representation of vessels estimated to be affected by this rule's proposed rate. From the years 2013–2015, an average of 230 vessels used pilotage services annually.[26] On average, 219 of these vessels are foreign-flagged vessels and 11 are U.S.-flagged vessels that voluntarily opt into the pilotage service.

Costs

The rate changes resulting from the new methodology would generate costs on industry in the form of higher payments for shippers. We calculate the cost in two ways in this RA, as the total cost to shippers and as a percentage of vessel operating costs.

Total Cost to Shippers

We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2016 with the total projected revenues to cover costs in 2017, including any temporary surcharges authorized by the Coast Guard. The Coast Guard sets pilotage rates so that the pilot associations receive enough revenue to cover their necessary and reasonable expenses. The shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of the shippers to the pilot associations are equal to the projected necessary revenues for the pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in the revenues from the previous year is the additional cost to shippers from this proposed rulemaking.

[25] 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.

[26] Some vessels entered the Great Lakes multiple years, affecting the average number of unique vessels utilizing pilotage services in any given year.

The effect of the rate changes on shippers is estimated from the District pilotage projected revenues and the proposed surcharges described in Section V of this preamble. We estimate that for the 2017 shipping season, the projected revenue needed for all three Districts is $20,418,252. Temporary surcharges on traffic in District Two and District Three would be applied for the duration of the 2017 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations require an additional $300,000 and $1,050,000 in revenue for applicant training expenses in Districts Two and Three, respectively. This is an additional cost to shippers of $1,350,000 during the 2017 shipping season. Adding the projected revenue to the proposed surcharges, we estimate the pilotage associations' total projected needed revenue for 2017 would be $21,768,252. The 2017 projected revenues for the districts are from Tables 11, 24, and 37 of this preamble. To estimate the additional cost to shippers from this proposed rule, we compare the 2017 total projected revenues to the 2016 projected revenues. Because the Coast Guard must 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 2016 rulemaking,[27] we estimated the total projected revenue needed for 2016, including surcharges, is $19,103,678. This is the best approximation of 2016 revenues as, at the time of this publication, we do not have enough audited data available for the 2016 shipping season to revise these projections. Table 43 shows the revenue projections for 2016 and 2017 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 43—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; Non-discounted]

Area	Revenue needed in 2016	2016 Temporary surcharge	Total 2016 Projected revenue	Revenue needed in 2017	2017 Temporary surcharge	Total 2017 Projected revenue	Additional costs of this proposed rule
Total, District One	$5,354,945	$450,000	*$5,804,945*	$7,001,953	$0	*$7,001,953*	$1,197,008
Total, District Two	5,629,641	300,000	*5,929,641*	6,263,404	300,000	*6,563,404*	633,763
Total, District Three	6,469,092	900,000	*7,369,092*	7,152,895	1,050,000	*8,202,895*	833,803
System Total	17,453,678	1,650,000	*19,103,678*	20,418,252	1,350,000	*21,768,252*	2,664,574

* Values may not sum due to rounding.

The resulting difference between the projected revenue in 2016 and the projected revenue in 2017 is the annual change in payments from shippers to pilots as a result of the rate change imposed by this proposed rule. The effect of the rate change in this proposed rule on 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 $1,197,008, $633,763, and $833,803, respectively, from the previous year. The overall adjustment in payments would be an increase in payments by shippers of approximately $2,664,574 across all three districts (a 14 percent increase over 2016). Because the Coast Guard must review and prescribe rates for Great Lakes Pilotage annually, the effects are estimated as single year costs rather than annualized over a 10-year period.

Table 44 shows the difference in revenue by component from 2016 to 2017.[28] Although per pilot compensation is unchanged from the 2016 final rule, the majority of the increase in revenue is due to the addition of 8 pilots that were authorized in the 2016 rule. These eight pilots are currently training this year and will become full-time working pilots at the beginning of the 2017 shipping season. These pilots will be compensated at the target compensation established in the 2016 final rule ($326,114 per pilot). The addition of these pilots to full working status accounts for $2,608,913 of the increase. The remaining amount is attributed to inflation of operating expenses, working capital fund, and differences in the surcharges from 2016.

TABLE 44—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2016	Revenue needed in 2017	Difference (2017 revenue − 2016 revenue)
Adjusted Operating Expenses	$4,677,518	$4,927,636	$250,118
Total Target Pilot Compensation	12,066,226	14,675,139	2,608,913
Working Capital Fund	709,934	815,475	105,541
Total Revenue Needed, without Surcharge	*17,453,678*	*20,418,250*	*2,964,572*
Surcharge	1,650,000	1,350,000	−300,000
Total Revenue Needed, with Surcharge	19,103,678	21,768,252	2,664,574

* Values may not sum due to rounding.

[27] 2016 projected revenues are from the 2016 rulemaking, 81 FR 11937, Figures 31 and 32.

[28] The 2016 projected revenues are from the 2016 rulemaking, 81 FR 11934, Figures 24 and 28. The 2017 projected revenues are from Tables 11, 24, 37, and 40 of this NPRM.

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on the foreign vessels affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The part 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 2013–2015 vessel arrival data from the Coast Guard's Ship Arrival Notification System and pilotage billing data from the GLPMS. A random sample of 50 arrivals was taken from GLPMS data. To estimate the impact of pilotage costs on the costs of an entire trip, we estimated the length of each one way trip. We used the vessel name and the date of the arrival to find the last port of call before entering the Great Lakes system. The date of the departure from this port was used as the start date of the trip. To find the end date of the trip we used GLPMS data to find all the pilotage charges associated with this vessel during this trip in the Great Lakes system. The end date of the one way trip was taken as the last pilotage charge before beginning the trip to exit the system. We estimated the total operating cost by multiplying the number of days for each by the 2015 average daily operating cost and added this to the total pilotage costs from GLPMS for each trip. In 2015 the average daily operating costs (excluding fixed costs) for Great Lakes bulkers and tankers ranged roughly from $5,191 to $7,879.[29] The total pilotage charges for each trip were updated to the 2016 rates using the average rate increases in the Great Lakes Pilotage Rates 2013–2016 Annual Review and Adjustments final rules.[30] The total updated pilotage charges for each trip were then divided by the total operating cost of the trip. We found that for a vessel's one-way trips, the U.S. pilotage costs could account for approximately 16.99 percent[31] of the total operating costs for a foreign vessel's voyage using 2016 rates.

We also estimated the impact of the rate increase in this proposed rule. We took the same 50 trips and updated the pilotage costs to the proposed 2017 rates (average increase of 17 percent). With this proposed rule's rates for 2017, pilotage costs are estimated to account for 19.11 percent of total operating costs, or a 2.2 percentage point increase[32] over the current cost. The total operating costs do not include the fixed costs of the vessels. If these costs are included in the total costs, the pilotage rates as a percentage of total costs would be lower.

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 ensuring rates cover an association's operating expenses; provide fair pilot compensation, adequate training, and sufficient rest periods for pilots; and ensures the association makes enough money to fund future improvements. The rate changes will also help recruit and retain pilots, which will ensure a sufficient number of pilots to meet peak shipping demand, which would help reduce delays caused by pilot shortages.

The proposed amendment of the cancellation charge in § 401.120(b) would prevent confusion and help ensure that it explicitly states that the minimum charge for a cancellation is 4 hours. The proposed limitation to the surcharge regulation in § 401.401 would prevent excess amounts from being recouped via the following year's rule. The proposed adjustment to § 403.300(c) to require submission of an unqualified audit by January 31st of each year would allow our independent auditors to begin work much sooner and complete work on the third party audit in time to be used for the publication of the proposed rule that summer. This timeline would remove 1 year from the current 3-year gap between the actual expenses and their recoupment in the rate. The proposed changes to § 404.104 will promote target compensation stability and rate predictability. The proposed changes to §§ 403.300(c) and 404.104 should assist the pilot associations with recruitment and retention and help the various stakeholders forecast budgets and pricing.

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 GLPMS and we reviewed business revenue and size data provided by publicly available sources such as MANTA[33] and ReferenceUSA.[34] As described in Section VI.A of this preamble, Regulatory Planning and Review, we found that a total of 407 unique vessels used pilotage services over the years 2013–2015. These vessels are owned by 119 entities. We found that of the 119 entities that own or operate vessels engaged in trade on the Great Lakes affected by this proposed rule, 104 are foreign entities that operate primarily outside of the United States. The remaining 15 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[35] to determine how many of these companies are small entities. Table 45 shows the NAICS codes of the U.S. entities and the small entity standard size established by the Small Business Administration.

[29] *''Ship operating costs: Current and future trends,''* Richard Grenier, Moore Stephens LLP, December 2015. The 2015 weighted average operating cost is estimated at $5,191 for a handysize bulker, $5,771 for a handymax bulker, and $7,879 for a product tanker. These costs include only the costs of operating and do not include any fixed costs of the vessels (such as amortization of vessel construction costs). The operating costs include crew wages, provisions, other crew costs, lubricating oils and store costs, spares, repair and maintenance, P&I insurance, marine insurance, registration costs, management fees, and sundry expenses.

[30] The average percentage changes in the rates for 2013–2016, were 1.87%, 2.5%, 10%, and 12%, respectively.

[31] For the random sample of 50 arrivals, the average of the pilotage costs as a percentage of the total operating costs was 16.9%. The percentages ranged from a low of 3.2% to a high of 35.2%.

[32] 19.1% of total operating costs in 2017—16.9% of total operating costs in 2016 = 2.2% incremental increase of pilotage costs as a percentage of total operating costs.

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

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

[35] 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 45—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
441222	Boat Dealers	$32.5 million.
483113	Coastal & Great Lakes Freight Transportation	750 employees.
483211	Inland Water Freight Transportation	750 employees.
483212	Inland Water Passenger Transportation	500 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488320	Marine Cargo Handling	$38.5 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. Further, 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 affected by the proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 total employees. We expect no adverse effect to these entities from this proposed rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

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

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

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). 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 that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

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

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under 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 Executive 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. 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 Executive Order 13211.

L. Technical Standards

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule is categorically excluded under section 2.B.2, and figure 2–1, paragraph 34(a) of the Instruction. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This proposed rule adjusts rates in accordance with applicable statutory and regulatory mandates. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

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

46 CFR Part 403

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

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401, 403, and 404 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 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. Revise § 401.401 to read as follows:

§ 401.401 Surcharges.

To facilitate safe, efficient, and reliable pilotage, and for good cause, the Director may authorize surcharges on any rate or charge authorized by this subpart. Surcharges must be proposed for prior public comment and may not be authorized for more than 1 year. Once the approved amount has been received, the pilot association is not authorized to collect any additional funds under the surcharge authority and must cease such collections for the remainder of that shipping season.

■ 3. Revise § 401.405(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 $757;

(2) Lake Ontario is $522;

(3) Lake Erie is $537;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $720;

(5) Lakes Huron, Michigan, and Superior is $280; and

(6) The St. Mary's River is $661.

* * * * *

■ 4. Revise § 401.420(b) to read as follows:

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

* * * * *

(b) When an order for a U.S. pilot's service is cancelled, the vessel can be charged for the pilot's reasonable travel expenses for travel that occurred to and from the pilot's base, and the greater of—

(1) Four hours; or

(2) The time of cancellation and the time of the pilot's scheduled arrival, or the pilot's reporting for duty as ordered, whichever is later.

* * * * *

■ 5. Amend § 401.450 as follows:

■ a. Redesignate paragraphs (b) through (j) as paragraphs (c) through (k), respectively; and

■ b. Add new paragraph (b) to read as follows:

§ 401.450 Pilotage change points.

* * * * *

(b) The Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY beginning January 31, 2017;

* * * * *

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

■ 6. The authority citation for part 403 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).

■ 7. Revise § 403.300(c) to read as follows:

§ 403.300 Financial reporting requirements.

* * * * *

(c) By January 24 of each year, each association must obtain an unqualified audit report for the preceding year that is audited and prepared in accordance with generally accepted accounting principles by an independent certified public accountant. Each association must electronically submit that report with any associated settlement statements and all accompanying notes to the Director by January 31.

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 8. 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).

■ 9. Amend § 404.103 as follows:

■ a. In paragraph (a), following the words ''dividing each area's'' remove the word ''peak'' and add, in its place, the word ''seasonal''; and

■ b. Revise paragraph (b) to read as follows:

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

* * * * *

(b) Pilotage demand and the base seasonal work standard are based on available and reliable data, as so deemed by the Director, for a multi-year base period. The multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

* * * * *

■ 10. Revise § 404.104 to read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark.

At least once every 10 years, the Director will set a base target pilot compensation benchmark using the most relevant available non-proprietary information. In years in which a base compensation benchmark is not set, target pilot compensation will be adjusted for inflation using the CPI for the Midwest region or a published predetermined amount. The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation by the number of pilots projected under § 404.103(d).

§ 404.105 [Amended]

■ 11. In § 404.105, remove the words ''return on investment'' and add, in their place, the words ''working capital fund.''

Dated: October 13, 2016.

Michael D. Emerson,

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

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