Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

The DOE documents ''Quality Assurance Project Plan for the Transuranic Waste Characterization Program (PLN–190), Revision 4 (March 2000),'' ''INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan (PLN–182), Revision 4 (March 2000),'' and ''Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste (PLN–579), Revision 0 (March 2000),'' are available for review in the official EPA Air Docket in Washington, D.C., Docket No. A–98–49, Category II-A–2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10am–9pm, Friday–Saturday, 10am–6pm, and Sunday, 1pm–5pm; in Albuquerque at the Government Publications Department, General Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9am–5pm.

Copies of items in the docket may be requested by writing to Docket A–98–49 at the address provided above, or by calling (202) 260–7548. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Scott Monroe, Office of Radiation and Indoor Air, (202) 564–9310, or call EPA's 24-hour, toll-free WIPP Information Line, 1–800–331–WIPP, or visit our website at http://www.epa.gov/radiation/wipp/announce.html.

SUPPLEMENTARY INFORMATION: The DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Most TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and organic and inorganic sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision states that the WIPP will comply with the EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes a condition that prohibits shipment of TRU waste for disposal at WIPP from any site other than Los Alamos National Laboratory (LANL) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.24(c)(4) (condition 3 of appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision making process, DOE is required to submit to EPA appropriate documentation of waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, D.C., and in informational dockets in the State of New Mexico, for public review and comment.

EPA inspected certain waste characterization processes at INEEL on July 28–30, 1998. DOE is proposing to apply those same processes that EPA inspected and approved (A–98–49 Items II–A–4–1 & 2) to new groups of waste streams. Specifically, the EPA approval (A–98–49 Items II-A–4–1 & 2) limits the applicability of the INEEL waste characterization processes and systems to graphite-bearing debris wastes. In the action described today, INEEL is seeking to have that approval expanded to include all debris wastes. EPA will conduct an inspection of INEEL to verify that these additional waste streams can be characterized in compliance with 40 CFR 194.24.

The INEEL documents submitted to EPA are: ''Quality Assurance Project Plan for the Transuranic Waste Characterization Program (PLN–190), Revision 4 (March 2000),'' ''INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan (PLN–182), Revision 4 (March 2000),'' and ''Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste (PLN–579), Revision 0 (March 2000).'' The ''Quality Assurance Project Plan for the Transuranic Waste Characterization Program (PLN–190), Revision 4 (March 2000)'' and the ''INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan (PLN–182), Revision 4 (March 2000)'' set forth the quality assurance program applied to TRU waste characterization at INEEL. The ''Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste (PLN–579), Revision 0 (March 2000)'' sets forth the waste characterization procedures for TRU wastes at INEEL. After EPA reviews these documents, EPA will conduct an inspection of INEEL to determine whether the requirements set forth in these documents are being adequately implemented in accordance with Condition 3 of the EPA's WIPP certification decision (appendix A to 40 CFR part 194). In accordance with § 194.8 of the WIPP compliance criteria, EPA is providing the public 30 days to comment on the documents placed in EPA's docket relevant to the site approval process. Because the inspection will occur during the comment period, EPA will respond to relevant comments received prior to, during, and after the inspection.

If EPA determines that the provisions in the documents are adequately implemented, EPA will notify the DOE by letter and place the letter in the official Air Docket in Washington, DC, and in the informational docket locations in New Mexico. A positive approval letter will allow DOE to ship additional TRU waste from INEEL. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the EPA's radioactive waste disposal standards (40 CFR part 191), the compliance criteria (40 CFR part 194), and the EPA's certification decision is filed in the official EPA Air Docket, Dockets No. R–89–01, A–92–56, and A–93–02, respectively, and is available for review in Washington, DC, and at the three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket after the October 1992 enactment of the WIPP LWA.

Dated: April 10, 2000.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 00–9378 Filed 4–13–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG–1999–6098]

RIN 2115–AF91

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to update the rates that pilots receive for their services on the Great Lakes. We are required by regulations to review these rates annually. Based on our review, we propose to minimally change the rates for the 2000 season to prevent a large rate change in future years.

DATES: Comments and related material must reach the Docket Management Facility on or before May 15, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–1999–6098), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call LCDR Don Darcy, Project Manager, Office of Standards Evaluation and Development Division, Commandant (G-MSR–1), U.S. Coast Guard, at 202–267–1200, by facsimile 202–267–4547, or by email at ddarcy@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1999–6098), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

(a) Regulatory History

On May 9, 1996, the Department of Transportation published a final rule in the **Federal Register** (61 FR 21081). The rule explained the methodology used to set the rates for pilots working in the Great Lakes.

On December 14, 1998, the Coast Guard published a notice of annual review findings in the **Federal Register** (63 FR 68697). The Notice announced the results of the 1998 Rate Review and requested comments.

(b) Purpose of This Rulemaking

The Coast Guard is required by 46 CFR 404.1 (b) to conduct an annual review of rates for pilots working in the Great Lakes. We reviewed these rates by using the methodology found in 46 CFR, part 404, Appendix A, Step 2.A. As explained in Step 2.A, the compensation target for pilots providing service on designated waters of the Great Lakes is equal to the approximate average annual compensation for masters on U.S Great Lakes vessels. To calculate the compensation target for pilots, multiply the average annual compensation earned by first mates on U.S. Great Lakes vessels times 150%. The target compensation for pilots providing service on undesignated waters of the Great Lakes is equal to the approximate average annual compensation for first mates on U.S. Great Lakes vessels. We reviewed these pilotage rates and determined that they should be adjusted to meet pilot target compensation. Therefore, in accordance with 46 U.S.C. 9303(f), and based on the 1999 rate review, we are proposing to update the pilotage rates to meet these targets. We would like your comments on these updated rates.

What Is the Coast Guard Proposing in This Rulemaking?

We propose to change the rates for pilots in 46 CFR 401.405, 401.407, and 401.410 as follows:

If you are a pilot working in . . .	Your rate will . . .
Area 1	increase 3%
Area 2	decrease 4%
Area 4	decrease 2%
Area 5	decrease 6%
Area 6	no change
Area 7	increase 9%
Area 8	decrease 5%

We also propose to decrease the rates in 46 CFR 401.420 and 401.428 by 1% because the average change in rates for all districts is 1%.

The yearly rate update is designed to minimize fluctuations in pilot compensation and avoid large changes in pilotage rates.

This rulemaking follows the methodology detailed in 46 CFR Part 404, including the step-by-step ratemaking calculations contained in Appendix A to Part 404. We summarized these calculations in the following tables and explained them in more detail afterwards.

TABLE A.—DISTRICT 1

Methodology	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Step 1, Projection of operating expenses	$287,152	$244,612	$531,764
Step 2, Projection of target pilot compensation	$1,088,262	$414,576	$1,502,838
Step 3, Projection of revenue	$1,333,991	$687,207	$2,021,198
Step 4, Calculation of investment base	$0	$0	$0
Step 5, Determination of target return on investment	6.69%	6.69%	6.69%
Step 6, Adjustment determination	$1,359,198	$645,374	$2,004,572
Step 7, Adjustment of pilotage rates	1.03	.96	1.01

TABLE B.—DISTRICT 2

Methodology	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron Michigan	Total District 2
Step 1, Projection of operating expenses	$609,164	$518,917	$1,128,081
Step 2, Projection of target pilot compensation	$518,220	$1,243,728	$1,761,948
Step 3, Projection of revenue	$1,156,057	$1,886,198	$3,042,255
Step 4, Calculation of investment base	$45,397	$71,006	$116,403
Step 5, Determination of target return on investment	6.69%	6.69%	6.69%
Step 6, Adjustment determination	$1,134,321	$1,773,496	$2,907,817
Step 7, Adjustment of pilotage rates	.98	.94	.96

TABLE C.—DISTRICT 3

Methodology	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Step 1, Projection of operating expenses	$648,500	$128,476	$446,608	$1,223,584
Step 2, Projection of target pilot compensation	$1,140,084	$621,864	$829,152	$2,591,100
Step 3, Projection of revenue	$1,797,967	$688,583	$1,338,912	$3,825,462
Step 4, Calculation of investment base	$11,997	$4,595	$8,934	$25,526
Step 5, Determination of target return on investment	6.69%	6.69%	6.69%	6.69%
Step 6, Adjustment determination	$1,789,386	$750,648	$1,276,358	$3,816,392
Step 7, Adjustment of pilotage rate	1.00	1.09	.95	.99

Here is a detailed explanation of our step-by-step calculations.

Step 1.A: Submission of Financial Information

Our first step is to gather financial data from each of the three Great Lakes pilot associations (the Associations). Each of the Associations must obtain an audit by an independent Certified Public Accountant (CPA) and submit these audits to the Director of the Great Lakes Pilotage (the Director), in accordance with 46 CFR 403.300.

Step 1.B: Determination of Recognizable Expenses

Each year, the Director determines which Association expenses will be recognized for ratemaking purposes. The Director may hire an independent CPA firm to review the expenses reported by the Association using the guidelines contained in 46 CFR 404.05. However, for 1999 this was not possible due to the transfer of the Office of the Director, Great Lakes Pilotage from the St. Lawrence Seaway Development Corporation to the United States Coast Guard, and the fact that the position of Economist on the Director's staff was vacant for the last half of 1998. To determine the reasonable and necessary expenses for the purpose of the 1999 Rate Review, we used the Director's 1997 independent audit of the Associations. In the following paragraphs, we discuss some of the details of the audit and afterward, we have provided you with a table containing the expenses that the Director recognized and approved.

We calculate target pilot compensation each year based on the previous year's compensation earned by first mates on U.S. Great Lakes vessels. That figure is added to the total expenses to determine the revenue needed for ratemaking purposes. District 2 reported pilot compensation of $246,649 as training expenses and District 3 reported applicant pilot salaries and benefits of $274,509 as an expense. Because the figures represent pilot compensation, they cannot be considered expenses for ratemaking purposes. The Director subtracted these expenses from the expense bases of Districts 1 and 2.

To support safety and ongoing learning, each Pilot's Association agreed to develop a Continuing Education Plan for registered pilots to keep them aware of safety issues and refresh their skills. Each Association submitted a plan that the Director approved, with minor modifications. The Director will continue to monitor these plans to ensure they have been implemented, are effective and are applied to each District's continuing education account. The Director reserves the right to modify each plan as necessary.

In order to encourage safety and compensate each District for its training expenses, the Director has added the following figures to the expense bases of each District:

District 1: $30,000.

District 2: $40,000.

District 3: $50,000.

These figures include $2000 for each District for their ''Train the Trainer'' courses which prepare pilots to more effectively contribute to the training process.

The following table displays the results of the audits and the Director's adjustments.

RECOGNIZABLE EXPENSES

	District 1	District 2	District 3
Total reported expenses	$343,699	$1,522,063	$1,191,109
Proposed adjustments (independent CPA firm)	70,939	(225,569)	151,619
Director's adjustments	(32,894)	(246,649)	(274,509)
	45,000	(45,602)	(56,203)
	30,000	(21,151)	40,000
	40,000		50,000
Total recognized expenses	$456,744	$1,023,092	$1,062,016

In June 1999, we forwarded the Director's 1997 independent CPA firm audit report to the Associations for comment. The following is a summary of the CPA firm's major findings and proposed adjustments, along with the Director's corresponding adjustments.

Summary of Major Findings and Proposed Adjustments

We divided the adjustments we made to the reported expenses into five categories: (1) Equalization Between districts, (2) reimbursed expenses, (3) expenses not necessary for pilotage services, (4) expenses related to lobbying, and (5) expenses not conforming to IRS guidelines.

(1) Equalization between Associations

The Coast Guard must ensure that each association's expenses are analyzed fairly and consistently with the other associations because each one is organized differently. The District 1 and 3 Associations are organized as partnerships whereas the District 2 Association is organized as a corporation. Because of this difference, the District 2 Association pays for Social Security taxes, Medicare taxes, insurance and travel expenses out of corporate funds while in the District 1 and 3 Associations these expenses are paid directly by the pilots themselves. Since these taxes, insurance and travel expenses are legitimate business expenses that should be recognized for ratemaking purposes, funds for these expenses have been added to the expense base of Districts 1 and 3.

District 2 spends a great deal more than the other Districts on many categories of expenses. For instance, pilot boat expenses in District 2 average $176 per trip, while expenses in the other two Districts average approximately $97 per trip. Erie Leasing, a wholly owned subsidiary of District 2 pilot's association that leases equipment back to District 2, reported a net income from operations of $70,506 in 1997, while District 3 has no affiliated company and the District 1 affiliated company showed a net income of $4520 for 1997.

In the 1998 rate review, the Director stated that 1998 was the last year in which District 2 would be allowed to incur unreasonably high expenses. To bring pilot boat charges in line with Districts 1 and 3, the Director is reducing District 2's expense base by an additional $45,602. This deduction is intended to offset Erie Leasing's net income of $70,506 from operations. This, in effect, reduces Erie Leasing's net income to $24,904, which represents a 6.69% return on Erie Leasing's property and equipment of $372,270.

(2) Reimbursed Expenses

The independent CPA firm found that multiple parties reimburse some expenses for each association and recommended that these expenses should not be included in the expense base for each district. Examples of these expenses include reimbursement from one pilot association to another for shared pilot boats and dispatch, reimbursement from ships for tugboat use, and reimbursement from Canadian pilotage operations for shared administrative expenses. Although these are legitimate business expenses, they are paid by other districts or parties, not by basic pilotage rates, and should not be included in the calculation of pilotage rates for the district being reimbursed. The Director agrees with the independent CPA firm's recommendation to deduct reimbursed expenses from the expense bases of District's 2 and 3. These expenses include those for Canadian pilotage operations and shared administrative expenses.

(3) Expenses Not Necessary for Pilotage Services

Expenses that are not necessary for the provision of pilotage services are disallowed for ratemaking purposes. This is explained in 46 CFR 404.5 (a)(1), which contains some of the Great Lakes Pilotage Ratemaking regulations. This section states: ''Each expense included in the rate base is evaluated to determine if it is necessary for the provision of pilotage service'' and ''expense items that the Director determines are not reasonable and necessary for the provision of pilotage service will not be recognized for ratemaking purposes.'' The independent CPA firm determined that the largest portion of expenses that fits in this category came from the legal challenge by two Associations. They challenged the transfer of Great Lakes Pilotage oversight functions from the Commandant of the Coast Guard to the Administrator of the Saint Lawrence Seaway Development Corporation (SLSDC). This transfer did not affect the substantive rules regarding pilotage services. These litigation costs are distinguishable from expenses that are directly related to the provision of those services, such as the cost of transportation to and from vessels or the pilot's labor, from which the rate-paying public derives a direct benefit. The latter are costs that affect service to the public, while the former are not. We allowed some legal expenses directly related to the provision of pilotage service, such as the expense of defending a law suit by an applicant pilot discharged from the training program for cause, which directly affects the quality of service provided the public. While it is reasonable to expect the public to share the burden of the direct costs of services provided, it is not reasonable to pass on the costs of litigation over an issue that has no discernable effect on the actual provision of pilotage services. Therefore, we are disallowing these legal costs for the purposes of this ratemaking ($19,900 in District 1, $36,869 in District 3).

Furthermore, the Director believes that a major portion of the remaining legal costs, even after disallowance for the above, are still excessive. In 1997, District 1 reported $34,138 in legal expenses, District 2: $21,151, and District 3: $56,203. The Director intends to recognize only those legal expenses that are reasonable, necessary and directly related to the provision of pilotage services (*i.e.,* they directly result from a legal action). In 1997, District 1 incurred $34,138 in legal expenses; $1,244 of which was directly related to litigation. Therefore, in the absence of any documentation to justify these legal expenses, the Director, for ratemaking purposes, is disallowing $32,894 in legal expenses for District 1. Furthermore, because there were no legal expenses related to litigation in Districts 2 and 3, the Director is disallowing $21,151 for District 2 and $56,203 for District 3.

In addition to the costs associated with legal expenses, the independent CPA firm also recommended additional deductions from District 2's expenses in the amount of $4800 for overpayment of rent, $947 for business promotion, $400 in donations, and $1,988 for uniforms. None of these charges are necessary for the provision of pilotage services. The Director agrees with the independent CPA firm's findings and these expenses have been deducted from the rate base.

(4) Expenses Related to Lobbying

The independent CPA firm recommended that we deduct $1,392 from District 1, $3,428 from District 2, and $12,495 from District 3 for lobbying expenses including dues, legal charges, employee payrolls, and travel.

(5) Expenses Not Conforming to IRS Guidelines

The independent CPA firm recommended that we deduct $2,484 from District 2's expense base for overpayment of a subsistence allowance that does not conform to IRS guidelines. The Director agrees with these findings and we deducted these expenses from the rate base.

During the 1999 navigational season, the Director initiated a change to District 1's Working Rules, in order to reduce pilot fatigue. This change increased the pilot's minimum time between assignments from eleven hours to thirteen hours and approved the use of a car service between home and pilot change points. During 1999, the cost of the car service was applied as a surcharge on the pilot's uniform source form. To incorporate this expense in District 1's expense base, the Director has approved an additional $45,000.

Step 1.C: Adjustment for Inflation or Deflation

To adjust expenses for inflation, we increased the total recognized expenses for each association by 2.1%. The 2.1% inflation figure is based on the change in the Consumer Price Index (CPI) from January 1998 to April 1999.

Step 1.D: Projection of Operating Expenses

Once all adjustments are made to the recognized operating expenses, the Director projects these expenses for each pilotage area. The Director considers foreseeable circumstances that could affect the accuracy of the projection and, as best as possible, determines the "projection of operating expenses."

For this rulemaking, we adjusted association expenses by multiplying the pilotage hour projection for each district (described in step 2.B., below) by the aggregate percentage of Association expenses that change in relation to a change in pilotage hours. Analysis indicates about 57% of Association expenses are affected by a change in pilotage hours. For instance, in District 1, pilotage hours are projected to decrease 5% (see step 2.B. below) which is multiplied by 57% to project that District 1's operating expenses should decrease 2.8% in response to the projected decrease in pilotage hours. Then, District-wide expenses were apportioned to each area according to the number of pilots in that area, as determined in step 2.B., below. For instance, District 1 is calculated to need seven pilots in Area 1 and four pilots in Area 2, therefore, Area 1 was assigned 64% of the expenses for the District and Area 2 was assigned 36% of the expenses for the District. The results of Step 1 for each district are displayed below.

DISTRICT 1

Methodology	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Projection of operating expenses	$287,152	$244,612	$531,764

DISTRICT 2

Methodology	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron MI	Total District 2
Projection of operating expenses	$609,164	$518,917	1,128,081

DISTRICT 3

Methodology	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Projection of operating expenses	$648,500	$128,476	$446,608	$1,223,584

Step 2.A: Determination of Target Rate of Compensation

For pilots providing service in undesignated waters, the target rate of compensation is equal to the average yearly compensation earned by first mates on U.S. Great Lakes vessels. Effective August 1, 1999, the rate is $103,644, according to information from the American Maritime Officers Union and Great Lakes Ship Operating Companies. This rate covers wages and compensation which include work days, vacation pay, weekend pay, holiday pay, bonuses, clerical pay, medical benefits and pension contributions.

For pilots providing services in designated waters the target rate of compensation is 1.5 times the yearly rate of first mate compensation, which is calculated at $155,466. These figures represent a 12% increase in pilot's target compensation since pilotage rates were last set in 1997.

Step 2.B: Determination of Number of Pilots Needed

The number of pilots needed is determined by dividing the projected bridge hours for each area by the work hour targets for each area *i.e.,* 1000 hours in designated waters and 1800 hours in undesignated waters. Pilot bridge hours are projected based on the vessel traffic that these pilots are expected to serve. The Coast Guard used three sources to project vessel traffic and bridge hours. These sources included industry surveys, projections by the St. Lawrence Seaway Corporation and current bridge hour levels. The projection for 1999 is for a 5% reduction in Districts 1, 2, and 3. The following bullets list the projected equivalent pilot needs for 1999, by area:

- Area 1: 7 pilots.
- Area 2: 4 pilots.
- Area 4: 5 pilots.
- Area 5: 8 pilots.
- Area 6: 11 pilots.
- Area 7: 4 pilots.
- Area 8: 8 pilots.

(We use the term ''equivalent'' because the actual assignment of pilots to each area varies according to the needs of vessel traffic). Applying this methodology to the undesignated waters of District 3 results in a total of 19.2 pilots required for both Areas 6 and 8. Because District 3 utilizes contract pilots, a total of 19 pilots was utilized instead of 20 pilots to determine total pilot target compensation for the District. This certainly is not intended to penalize District 3 in any manner. Contract pilots enhance profitability while providing District 3 an added flexibility to comfortably handle sudden surges in traffic, while protecting pilot compensation targets in the event that projected traffic projections fall short of estimates.

Step 2.C. Projection of Target Pilot Compensation

Target pilot compensation is determined by multiplying the target compensation for each area by the number of pilots in each area. The results of Step 2 are summarized below.

DISTRICT 1

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Projection of target pilot compensation	$1,088,262	$414,576	$1,502,838

DISTRICT 2

	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron, MI	Total District 2
Projection of target pilot compensation	$518,220	$1,243,728	$1,761,948

DISTRICT 3

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Projection of target pilot compensation	$1,140,084	$621,864	$829,152	$2,591,100

Step 3.A. Projection of Revenue

We projected Pilotage Revenue by multiplying the revenue by each Association in 1998 by the change in traffic projected for each Association. The result for each was divided among the pilotage areas based on the number of pilots in each area. The results of Step 3 for each district are summarized below.

DISTRICT 1

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Projection of revenue	$1,333,991	$687,207	$2,021,198

DISTRICT 2

	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron, MI	Total District 2
Projection of revenue	$1,156,057	$1,886,198	$3,042,255

DISTRICT 3

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Projection of revenue	$1,797,967	$688,583 $1,338,912	$3,825,462	

Step 4. Calculation of Investment Base

The independent CPA firm hired by the Director calculated the Investment Base for each Association during the analysis. The results of those calculations are contained in the reports of the CPA firm, which have been forwarded to each of the Districts for comment. The Step 4 Investment Base as calculated for each district is displayed below.

DISTRICT 1

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Calculation of investment base	$0	$0	$0

DISTRICT 2

	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron, MI	Total District 2
Calculation of investment base	$45,397	$71,006	$116,403

DISTRICT 3

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Calculation of investment base	$11,997	$4,595	$8,934	$25,526

Step 5. Determination of Target Rate of Return

The rate of return on investment (ROI) for 1999 was set at 6.69%. This is based on the preceding year's average annual rate of return of new issues of high-grade corporate securities (Moody's AAA rating, average return). The Step 5 determination of target return on investment is displayed below.

DISTRICT 1

	Area 1 St. Lawrence River (percent)	Area 2 Lake Ontario (percent)	Total District 1 (percent)
Determination of target return on investment	6.69	6.69	6.69

DISTRICT 2

	Area 4 Lake Erie (percent)	Area 5 South East Shoal to Port Huron, MI (percent)	Total District 2 (percent)
Determination of target return on investment	6.69	6.69	6.69

DISTRICT 3

	Area 6 Lakes Huron and Michigan (percent)	Area 7 St. Mary's River (percent)	Total District 3 (percent)
Determination of target return on investment	6.69	6.69	6.69

Step 6. Adjustment Determination

We made the adjustment determination using the numbers listed above and following the formula found in Step 6 of Appendix A to 46 CFR Part 404. The Step 6 results for each district are displayed below.

DISTRICT 1

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1 (percent)
Adjustment determination	$1,375,414	$659,187	$2,034,602

DISTRICT 2

	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron MI	Total District 2
Adjustment determination	$1,134,321	$1,773,496	$2,907,81

DISTRICT 3

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's, River	Area 8 Lake Superior	Total District 3
Adjustment determination	$1,789,386	$750,648	$1,276,358	$3,816,392

Step 7. Adjustment of Pilotage Rates

To determine the adjustments to pilotage rates in each area we multiplied the current pilotage rates in those areas by the rate multiplier. The rate multiplier is calculated by dividing the revenue needed (from step 6) by the revenue needed (from step 3) for each area. The Coast Guard proposes to amend the pilotage rates in 46–404.05–410 with the rates obtained by multiplying the current pilotage rates times the rate multiplier calculated for each pilotage area. The Step 7 Adjustments of Pilotage Rates for each district are displayed below.

DISTRICT 1

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District 1
Adjustment of pilotage rates	1.03	.96	1.01

DISTRICT 2

	Area 4 Lake Erie	Area 5 South East Shoal to Port Huron MI.	Total District 2
Adjustment of pilotage rates	.98	.94	.96

DISTRICT 3

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District 3
Adjustment of pilotage rate	1.00	1.09	.95	.99

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would make minimal adjustments to the pilotage rates for the Great Lakes 2000 shipping season. The Coast Guard used the ratemaking methodology found in 46 CFR part 404, Appendix A to identify adjustments necessary to achieve target pilot compensation by establishing these new rates for pilotage. This ratemaking methodology is designed to annually review pilotage rates in order to avoid fluctuations in pilot compensation thus avoiding large changes in pilotage rates. This notice of proposed rulemaking provides a step-by-step economic guide to show how the pilotage rates would be changed. The results of this rulemaking are in keeping with the Coast Guard's desire for a fair and efficient pilotage system.

Small Entities

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

For the Great Lakes region, small entities potentially impacted by this proposed rulemaking include shippers, Great Lakes ports, carriers, and shipping agents. The proposed decreases in Great Lakes pilotage rates are not expected to significantly impact small businesses because this rulemaking actually reduces the financial burden on small entities and on the general public.

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 rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Tom Lawler, Chief Economist, Great Lakes Pilotage (G–MW–1), U.S. Coast Guard, at 202–267–6447, by facsimile 202–267–4700, or by email at tlawler@comdt.uscg.mil.

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).

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).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 regulatory actions not specifically required by law. 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 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(a), of the Commandants Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. The proposed rule is procedural in nature because it deals exclusively with adjusting pilotage rates for the Great Lakes. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 401

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

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

PART 401—GREAT LAKES PILOTAGE REGULATIONS

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

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46 (mmm), 46 CFR 401.105 also issued the authority of 44 U.S.C. 3507.

2. In § 401.405, revise tables (a) and (b) to read as follows:

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$8 Kilometer or $13 per mile. [1]
Each Lock Transited	$176 [1]
Harbor Movage	$579 [1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $381 and the maximum basic rate for a through trip is $1,676.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six Hour Period	$282
Docking/Undocking	269

3. In § 401.407, revise tables (a) and (b) to read as follows:

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

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
Six Hour Period	$316	$316
Docking/Undocking	243	243
Any Point on the Niagara River below the Black Rock Lock	N/A	620

(b) Area 5 (Designated Waters):

Any point on/in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit pilot boat	St. Clair River
Toledo or any port on Lake Erie west of South-East Shoal	$929	$548	$1,205	$929	N/A
Port Huron Change Point	[1] 1,617	[1] 1,873	1,215	945	$672
St. Clair River	[1] 1,617	N/A	1,215	1,215	548
Detroit or Windsor or the Detroit River	929	1,205	548	N/A	1,215
Detroit Pilot Boat	672	929	N/A	N/A	1,215

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

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

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

* * * * * * *

(b) Area 7 (Designated Waters):

Area	Detour	Gros Cap	Any Harbor
Gros Cap	$1,436	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	1,436	541	N/A
Any point in Sault Ste. Marie, Ontario except the Algoma Steel Corporation Wharf	1,204	541	N/A
Sault Ste. Marie, Michigan	1,204	541	N/A
Harbor Movage	N/A	N/A	541

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six Hour Period	$248
Docking/Undocking	237

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number ''$51'' and add, in its place, the number ''$50''; and remove the number ''$807'' and add, in its place, the number ''$799''.

b. In paragraph (b), remove the number ''$51'' and add, in its place, the number ''$50''; and remove the number ''$807'' and add, in its place, the number ''$799''.

c. In paragraph (c) (1), remove the number ''$305'' and add, in its place, the number ''$302''; in paragraph (c) (3), remove the number ''$51'' and add, in its place, the number ''$50'' and also in paragraph (c) (3), remove the number ''$807'', and add, in its place, the number ''$799''.

§ 401.428 [Amended]

6. In § 401.428, remove the number ''$312'' and add, in its place, the number ''$309''.

Dated: April 5, 2000.

R.C. North,

Rear Admiral, U.S. Coast GuardAssistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–9251 Filed 4–13–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 12-Month Finding for an Amended Petition To List the Westslope Cutthroat Trout as Threatened Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service, announce a 12-month finding for an amended petition to list the westslope cutthroat trout (*Oncorhynchus clarki lewisi*) as threatened throughout its range pursuant to the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, we find that listing the westslope cutthroat trout is not warranted at this time.

DATES: The finding announced in this document was made on April 5, 2000.

ADDRESSES: Data, information, comments, or questions regarding this notice should be sent to the Chief, Branch of Native Fishes Management, U.S. Fish and Wildlife Service, Montana Fish and Wildlife Management Assistance Office, 4052 Bridger Canyon Road, Bozeman, Montana 59715. The complete administrative file for this finding is available for inspection during normal business hours, by appointment, at the above address. The status review document for westslope cutthroat trout (U.S. Fish and Wildlife Service 1999) may also be obtained at that address, or at our Internet web site at <www.r6.fws.gov/cutthroat>.

FOR FURTHER INFORMATION CONTACT: Lynn R. Kaeding, at the above address, telephone (406) 582–0717, or e-mail Lynn__Kaeding@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires that within 90 days of receipt, to the maximum extent practicable, we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the requested action may be warranted. If the petition contains substantial information, the Act requires that we initiate a status review of the species and publish a 12-month finding indicating whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate listing proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

On June 6, 1997, we received a formal petition to list the westslope cutthroat trout (*Oncorhynchus clarki lewisi*) as threatened throughout its range and designate critical habitat for this subspecies pursuant to the Act. The petitioners are American Wildlands, Clearwater Biodiversity Project, Idaho Watersheds Project, Inc., Montana Environmental Information Center, the Pacific Rivers Council, Trout Unlimited's Madison-Gallatin Chapter, and Mr. Bud Lilly.

The westslope cutthroat trout (WCT) is 1 of 14 subspecies of cutthroat trout native to interior regions of western North America (Behnke 1992). Cutthroat trouts owe their common name to the distinctive red slash that occurs just below both sides of the lower jaw. Adult WCT, especially males during the spawning season, typically exhibit bright yellow, orange, and red colors. Characteristics of WCT that distinguish this fish from the other cutthroat subspecies include a pattern of irregularly shaped spots on the body that has few spots below the lateral line, except near the tail; a unique number of chromosomes; and other genetic and morphological traits that appear to reflect a distinct, evolutionary lineage (Behnke 1992).

The historic range of WCT is considered the most geographically widespread among the 14 subspecies of inland cutthroat trout (Behnke 1992). Although not known precisely, the historic distribution of WCT in streams and lakes can be summarized as follows: West of the Continental Divide, the subspecies is native to several major drainages of the Columbia River basin, including the upper Kootenai River drainage from its headwaters in British Columbia, through northwest Montana, and into northern Idaho; the Clark Fork River drainage of Montana and Idaho downstream to the falls on the Pend Oreille River near the Washington-British Columbia border; the Spokane River above Spokane Falls and into Idaho's Coeur d'Alene and St. Joe River drainages; and the Salmon and Clearwater River drainages of Idaho's Snake River basin. The historic distribution of WCT also includes disjunct areas draining the east slope of the Cascade Mountains in Washington (Methow River and Lake Chelan drainages), the John Day River drainage in northeastern Oregon, and the headwaters of the Kootenai River and several other small disjunct regions in British Columbia. East of the Continental Divide, the historic distribution of WCT includes the headwaters of the South Saskatchewan River drainage (United States and Canada); the entire Missouri River drainage upstream from Fort Benton, Montana, and extending into northwest Wyoming; and the headwaters of the Judith, Milk, and Marias Rivers, which join the Missouri River downstream from Fort Benton. Today, various WCT stocks remain in each of these major river basins in Montana, Idaho, Washington, Oregon, and Wyoming, but occur in scattered, disjunct populations in Canada.

On July 2, 1997, we notified the petitioners that our Final Listing Priority Guidance, published in the December 5, 1996, **Federal Register** (61 FR 64425), designated the processing of new listing petitions as being of lower priority than completion of emergency listings and processing of pending