Proposed Rules

Federal Register
Vol. 61, No. 187
Wednesday, September 25, 1996

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.

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Parts 404 and 407

Seaway Regulations and Rules: Great Lakes Pilotage Rates

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking and hearing.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) is proposing to amend the Great Lakes Pilotage Regulations by increasing Great Lakes Pilotage Rates by: 6% in Area 1; 20% in Area 2; 7% in Area 4; 35% in Area 5; 11% in Area 6; 44% in Area 7; 12% in Area 8; and 17% for mutual rates.

The proposed pilotage rate adjustments are different in each area because the rates have not been set on an area-by-area basis since 1967. In the interim years pilotage rates were increased by a single percentage across areas and this led to disparities between areas and between districts. The rates proposed above were calculated by applying the same formulas uniformly to each area.

The increase in Great Lakes pilotage rates is necessary because pilot compensation has fallen below established compensation targets. In accordance with Step 2 of Appendix A to 33 CFR part 407, the compensation target for pilots providing service in the designated waters of the Great Lakes is the approximate average annual compensation for masters on U.S. Great Lakes vessels and the compensation target for pilots providing service in the undesignated waters of the Great Lakes is the approximate average annual compensation for first mates on U.S. Great Lakes vessels. In accordance with 33 CFR 407.1(b), pilotage rates have been reviewed and it has been determined that pilots are not meeting these targets. Therefore, in accordance with 46 U.S.C. 9303(f) the SLSDC is proposing to increase pilotage rates to meet these targets. The SLSDC requests comments on these proposed amendments and intends to conduct a public hearing. The purpose of this hearing is to gather information relating to this rulemaking and to permit responses by interested persons to material filed in this docket.

DATES: Any party wishing to present views on the proposed amendments may file comments with the SLSDC on or before November 12, 1996.

The SLSDC intends to conduct a public hearing on October 22, 1996, which will begin at 10 a.m. and last until all comments have been heard, or until 3 p.m.

ADDRESSES: Send comments to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Suite 5424, Washington, DC 20590.

The hearing will be held at the Crowne Plaza at Detroit Metro Airport, 8000 Merriman Road, Romulus, MI.

FOR FURTHER INFORMATION CONTACT: Scott A. Poyer, Chief Economist, Saint Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Suite 5424, Washington, DC 20590, room 5421, 1–800–785–2779, or Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Suite 5424, Washington, DC 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 1995, the Secretary of Transportation transferred responsibility for administration of the Great Lakes Pilotage Act from the Commandant of the U.S. Coast Guard to the Administrator of the SLSDC. This transfer was effected by a final rule published by the U.S. Department of Transportation (DOT) in the Federal Register on December 11, 1995 (60 FR 63444). Among the responsibilities transferred by this final rule was the responsibility for setting Great Lakes pilotage rates. On May 9, 1996, the DOT published a final rule in the Federal Register (61 FR 21081), which was originated and initially drafted when Great Lakes pilotage functions were administered by the U.S. Coast Guard. The final rule made the Department's final changes to the methodology used to set Great Lakes pilotage rates.

This rulemaking represents the first time the new methodology is being used to set Great Lakes pilotage rates. This rulemaking proposes the first full rate review since 1987, and the first rate adjustment since 1992. The magnitude of the rate adjustments proposed by this rulemaking are due to the nine-year interval since the last full ratemaking review. The new ratemaking methodology requires that pilotage rates be reviewed at least once a year. This yearly review is considered an improvement that will, over time, serve to avoid fluctuations in pilot compensation and avoid large changes in pilotage rates.

This rulemaking follows the methodology detailed in 33 CFR Part 407 and in particular the step-by-step ratemaking calculations contained in Appendix A to Part 407. These step-by-step calculations for each pilotage area are summarized in the following tables and explained in more detail afterwards:

TABLE A

	Area 1, St. Lawrence River	Area 2, Lake Ontario	Total, district 1
Step 1: Projection of operating expenses	$215,313	$155,916	$371,229
Step 2: Projection of target pilot compensation	$969,052	$461,450	$1,430,502
Step 3: Projection of revenue	$1,129,235	$522,059	$1,651,294
Step 4: Calculation of investment base	$135,076	$97,814	$232,890
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%

TABLE A—Continued

	Area 1, St. Lawrence River	Area 2, Lake Ontario	Total, district 1
Step 6: Adjustment determination	$1,194,793	$624,918	$1,819,711
Step 7: Adjustment of pilotage rates	1.06	1.20	1.10

TABLE B

	Area 4, Lake Erie	Area 5, South East Shoal to Port Huron, MI	Total, district 2
Step 1: Projection of operating expenses	$355,562	$580,127	$935,689
Step 2: Projection of target pilot compensation	$461,450	$1,107,488	$1,568,938
Step 3: Projection of revenue	$776,886	$1,267,552	$2,044,438
Step 4: Calculation of investment base	$100,885	$164,603	$265,488
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%
Step 6: Adjustment determination	$828,600	$1,706,522	$2,535,122
Step 7: Adjustment of pilotage rates	1.07	1.35	1.24

TABLE C

	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	$499,286	$103,027	$198,130	$800,443
Step 2: Projection of target pilot compensation	$922,900	$276,872	$369,160	$1,568,932
Step 3: Projection of revenue	$1,284,531	$265,062	$509,735	$2,059,328
Step 4: Calculation of investment base	$75,488	$15,577	$29,956	$121,021
Step 5: Determination of target rate of return on investment	7.72%	7.72%	7.72%	7.72%
Step 6: Adjustment determination	$1,428,014	$381,102	$569,602	$2,378,718
Step 7: Adjustment of pilotage rates	1.11	1.44	1.12	1.16

As summarized in the tables A, B and C above, the SLSDC proposes to amend the pilotage rates found in 33 CFR 404.405–404.410 by increasing basic pilotage rates by: 6% in Area 1; 20% in Area 2; 7% in Area 4; 35% in Area 5; 11% in Area 6; 44% in Area 7; and 12% in Area 8. For the pilotage rates in 33 CFR 404.420, 404.425 and 404.428, which are paid in all pilotage areas, the SLSDC proposes to increase these rates by 17% which is the aggregate increase for pilotage rates in all areas.

The calculations summarized in the tables A, B and C above follow the step-by-step instructions in 33 CFR Part 407 Appendix A. A more detailed explanation of the calculations in each step is as follows:

Step 1: Projection of Operation Expenses

Step 1.A.—Submission of Financial Information

The first step in determining the amount of operating expenses that will be allowed in pilotage rates is to gather financial data from each of the three Great Lakes pilot associations (the Associations). For 1995, the Associations each obtained an audit by an independent Certified Public Accountant and submitted these audits to the Director of the Great Lakes Pilotage (the Director), in accordance with 33 CFR § 406.300.

Step 1.B.—Determination of Recognizable Expenses

To aid the Director in determining which expenses reported by the Associations will be recognized for ratemaking purposes, the Director hired an independent Certified Public Accounting (CPA) firm to review the expenses reported by the Associations using the guidelines contained in 33 CFR 407.05. The results of the audits and the Director's determinations are as follows:

	District 1	District 2	District 3
Total reported expenses	$264,790	$1,118,862	$868,731
Proposed adjustments (independent CPA firm)	34,490	(321,774)	(8,750)
Director's adjustments	16,000	110,819	36,797
Total recognized expenses	315,280	907,907	896,778

The reports of the independent CPA firm details its proposed expense adjustments. The following is a summary of the major findings and proposed adjustments, along with the Director's corresponding adjustments where appropriate.

Adjustments made to the reported expenses can be divided into six categories: (1) equalization between Associations; (2) recordkeeping deficiencies; (3) reimbursed expenses; (4) expenses not necessary for the provision of pilotage services; (5) expenses related to lobbying; and (6) expenses which do not conform to Internal Revenue Service guidelines.

Equalization between Associations is necessary because each Association is organized differently. The District 1 and 3 Associations are organized as associations/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 for Districts 1 and 3 ($103,519 for District 1 and $203,986 for District 3).

Recordkeeping deficiencies were reported by the independent CPA firm for the District 2 and District 3 Associations. In District 2 contemporaneous logs were not kept for automobile expenses or credit card/travel expenses, while in District 3 contemporaneous logs were not kept for automobile expenses. Because of these recordkeeping deficiencies, the independent CPA firm recommended disallowing $59,867 from District 2 and $20,797 from District 3. The Director agrees that undocumented expenses should not be allowed for ratemaking purposes. However, since these recordkeeping practices were allowed in the past and there is no question that these types of expenses are necessary for the provision of pilotage services, the Director has reinstated these expenses into the rate base with the provision that each Association will address these discrepancies before the next full rate review. The Director is basing this decision on Step 1(1) of Appendix A to Part 407 which states that ''the Director forecasts the amount of fair and reasonable operating expenses that pilotage rates should recover.'' The Director believes it is fair and reasonable to give the Associations an opportunity to correct recordkeeping deficiencies discovered during audits. And in reply to the audit findings, each Association is taking steps to correct perceived recordkeeping deficiencies that were discovered by the independent CPA firm.

With regard to reimbursed expenses, the independent CPA firm found that some expenses for each Association are reimbursed by various parties and recommended that these expenses not be counted in the expense base for each Association. Examples of these expenses include reimbursement from one Association to another for shared pilot boat and dispatch, reimbursement from ships for tug boat use and reimbursement from Canadian pilotage operations for shared administrative expenses. These are legitimate business expenses but they are paid by other Associations or other parties, not by basic pilotage rates, and should therefore not be used in the calculation of pilotage rates for the Association being reimbursed. The independent CPA firm recommended $32,746 be deducted from District 1, $192,825 be deducted from District 2 and $112,812 be deducted from District 3. The Director agrees with the independent CPA firm's findings and these funds have been deducted from the rate base, except for $34,952 which the Director has added back into the expense base for District 2 because the independent CPA firm counted three years of Workers Compensation refunds instead of counting only one year's refund. This inadvertent miscalculation is corrected by the Director's addition of the $34,952.

Expenses that were not necessary for the provision of pilotage service are disallowed for ratemaking purposes. Under 33 CFR 407.5(a)(1) of the Great Lakes Pilotage Ratemaking regulations, ''[e]ach expense item 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 services will not be recognized for ratemaking purposes.'' The largest portion of expenses that the independent CPA firm believes fit in this category are costs resulting from the legal challenge by two Associations to the transfer of Great Lakes Pilotage oversight functions by the Secretary of Transportation from the Commandant of the Coast Guard to the Administrator of the SLSDC, together with the funding and staff. The transfer did not affect the substantive rules regarding the provision of 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 labor of the pilots, from which the public derives a direct benefit. The latter are costs that, if they were not incurred, would affect the level of service to the public, while the former are not. Additionally, some legal expenses which are directly related to the provision of pilot services are allowed, such as the expense of defending a suit by an applicant pilot discharged from the training program for cause, which directly affects the quality of service and safety. While it is reasonable to expect the public to share the burden of the costs of services provided that have been incurred by the Associations by passing those costs through the pilotage rate charged, it is not reasonable to pass on the costs of litigation over an issue that has no discernable, direct effect on the actual provision of pilotage services to that public. These costs therefore are being disallowed for the purposes of establishing the rate base ($34,411 in District 1, $465 in District 2 and $74,733 in District 3).

In addition to the costs associated with the litigation over redelegation of pilotage functions, the independent CPA firm also recommended an additional $60,585 be deducted from District 2 and $866 be deducted from District 3 for expenses that were not necessary or reasonable for the provision of pilotage service. Included in these expenses are overcharges for leases, charitable contributions, donations, uniforms and expenses for business promotion, none of which are necessary for the provision of pilotage service by a government regulated monopoly. The Director agrees with these findings and these expenses have been deducted from the rate base.

The independent CPA firm recommended that $1,872 be deducted from District 1, $3,456 be deducted from District 2, and $3,528 be deducted from District 3 for that portion of dues which go toward lobbying expenses. The Director has deducted these expenses from the rate base in accordance with 33 CFR 407.5(a)(8)(ii).

The independent CPA firm recommended that $4,576 be deducted from District 2 for per diem expenses that were in excess of IRS per diem guidelines, as per 33 CFR 407.5(a)(2)(iii). The Director agrees with these findings and the corresponding expenses have been deducted from the rate base.

During the Seaway Safety Summit held on August 6, 1996, each Association requested that the Director add funds to each Association's expense base for the purpose of purchasing portable Electronic Chart Display Information Systems (ECDIS). This equipment uses the Differential Global Positioning Satellite (DGPS) system to help mariners locate their exact positions. ECDIS/DGPS systems are being used by other pilot associations in the United States. The Director reviewed the request and is allowing

$16,000 per Association for the purchase, test and evaluation of two portable ECDIS/DGPS system per Association.

During the audit of Association expenses, each Association requested expenses be allowed in advance for items that they had not yet purchased. Examples of these items include funding for applicant trainees, continuing education, establishment of a capital improvement/replacement account, and purchase of a new pilot boat in District 1. All of these items may be considered in future ratemakings. At this time, however, there has been no agreement between the Director and the Associations on whether or how much to fund these items, therefore it would be premature to include funds for these items in this rulemaking.

Step 1.C.—Adjustment for Inflation or Deflation

The total recognized expenses for each Association were increased by 3.06% to adjust Association expenses for inflation. The 3.06% adjustment is based on the 1995 change in the consumer price index (CPI) for the North Central region of the United States. This measure of inflation is in wide usage throughout the United States and is a generally accepted method for adjusting for inflation. Appendix A, Step 1.C., details another measure which consists of creating a separate inflation index for each Association. It is proposed that Step 1.C. be amended to discontinue this alternative measure for three reasons. First, there is no reason to believe that the inflation experienced by Great Lakes pilots is any different from that experienced by everyone else in that area of the United States. Second, the creation of a separate index for each Association is counterproductive to the goal of treating each Association equally. Third, in order to implement this alternative measure the 1995 independent CPA firm audits would have to be compared to 1994 independent CPA firm audits. There are no 1994 independent CPA firm audits because this is the first time this rate methodology has been implemented and the first time the independent CPA firm was hired was for the 1995 audits. Completion of 1994 independent CPA firm audits would lead to a substantial delay in this rulemaking. Given the ready availability of an acceptable measure of inflation, it would not be fair and reasonable to delay the ratemaking over this limited issue. Therefore, the same inflation index (3.06%) was applied to each Association.

Step 1.D.—Projection of Operating Expenses

The final step in determining what Association operating expenses are included in rate calculations consists of projecting Association expenses forward to the rate period and apportioning District-wide expenses to each area within that District. In this way the pilotage charges in each area will more accurately reflect the expected cost of service in that area. A description of the pilotage areas is found in 33 CFR 407.10(b). For this rulemaking, Association expenses were adjusted by multiplying the pilotage hour projection for each district, as determined in step 2.B., below, by the aggregate percentage of Association expenses that change in response 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 increase 25% (see Step 2.B.), which is multiplied by 57% to project that District 1’s operating expenses should increase 14% in response to the projected increase 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 One and five pilots in Area Two, therefore Area One was assigned 58% of the expenses for the District and Area Two was assigned 42% of the expenses for the District. The resultant Projection of Operating Expenses are displayed in the first row of Tables A, B and C, above.

Step 2: Projection of Target Pilot Compensation

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 yearly compensation earned by first mates on U.S. Great Lakes vessels. Information from the American Maritime Officers Union and Great Lakes Ship Operating Companies indicates that this current rate is $92,290, which covers all wages and compensation received including: work days; vacation pay; weekend pay; holiday pay; bonus; clerical pay; medical benefits; and pension contribution. For pilots providing service in Designated Waters the target rate of compensation is 1.5 times first mate compensation, which is calculated to be $138,435.

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.,* 1,000 hours in designated waters and 1,800 hours in undesignated waters. Pilot Bridge hours are projected based on the vessel traffic that those pilots are expected to serve. The detailed 1996 vessel traffic and bridge hour projections are in the docket and are available for inspection. In summary, the SLSDC used four sources to project vessel traffic and bridge hours. These sources were industry survey results, commodity prices, mathematical modeling and current bridge hour levels. The projections for 1996 are for a 25% increase in bridge hours in District 1, no change in District 2 and a 25% decrease in District 3. The major differences in the predicted traffic in each District is due to the effects of the current grain shortage. Grain becomes a bigger proportion of cargoes as one travels west on the Great Lakes. Grain supplies this year have been lower than in past years due to bad weather. Applying this analysis to pilot bridge hours, it is projected that in 1996, Area 1 will require the equivalent of 7 pilots, Area 2 will require the equivalent of 5 pilots, Area 4 will require the equivalent of 5 pilots, Area 5 will require the equivalent of 8 pilots, Area 6 will require the equivalent of 8 pilots, Area 7 will require the equivalent of 2 pilots and Area 8 will require the equivalent of 4 pilots. The term ‘‘equivalent’’ is used because the actual assignment of pilots to each area varies according to the needs of vessel traffic.

The Director proposes the equivalent of 10 pilots for Area 6 to cushion the effect of this year’s rapid decrease in bridge hours in that area. As of June 30, 1996, pilot bridge hours were 42.80% lower in District 3 compared with the same period last year, with Area 6 losing the most pilots as a result. Decreases in traffic should lead to decreases in pilot numbers. However, this year’s extraordinary decrease is believed to be related to the shortage of grain cargoes at the beginning of 1996. This problem is not expected to continue into next year, so reducing the number of pilots rapidly this year would lead to a shortage of pilots next year. That is why the Director believes it is prudent to allow for 10 pilots in Area 6.

Step 2.C.—Projection of Target Pilot Compensation

Multiplying the target compensation for each area by the number of pilots in each area, the target pilot compensation for each area is determined and displayed in Tables A, B and C, above.

Step 3: Projection of Revenue

Step 3.A.—Projection of Revenue

Pilotage Revenue was projected by multiplying the revenue earned by each Association in 1995 by the change in traffic projected for each Association. The result for each District was divided among the pilotage areas based on the number of pilots in each area.

Step 4: Calculation of Investment Base

The Investment Base was calculated for each Association during the analysis performed by the independent CPA firm hired by the Director. The results of those calculations are contained in the reports of the CPA firm, which are in the docket. The Investment Base for each Association was calculated to be: $232,890 in District 1; $265,488 in District 2; and $119,823 in District 3. The District 1 and 2 Associations also had affiliated/related companies and the Investment Base for these companies was also calculated, but it was not used in the ratemaking because it was found that both of these companies were profitable and were already earning a return on investment which was within the range of reasonableness. If the Investment Base from these companies were also counted in the calculation of pilotage rates, this would result in an unfair double-counting of assets for return purposes.

Step 5: Determination of Target Rate of Return on Investment

The rate of return on investment (ROI) for 1996 was set at 7.72%. This is the 1995 average annual rate for new issues of high grade corporate securities as determined by the Market Finance Division of the Department of Treasury. Section (2) of Appendix A to 33 CFR Part 407 indicates that the rate of return will be calculated based on ''the most recent return on stockholder's equity for a representative cross section of transportation industry companies.'' At the time the Great Lakes Pilotage Ratemaking Methodology was written, this data was available from the U.S. Bureau of Economic Analysis (BEA). However, due to downsizing and restructuring of the Federal Government, the BEA no longer keeps this information. Therefore, the SLSDC proposes to amend Section (2) of Appendix A to set the rate of return equal to the previous year's average annual rate of return for new issues of high grade corporate securities.

Step 6: Adjustment Determination

The adjustment determination is made using the numbers listed above and following the formula found in Step 6 of Appendix A to 33 CFR Part 407. The results of this formula are found in Tables A, B and C listed above.

Step 7: Adjustment of Pilotage Rates

The adjustments to pilotage rates in each area are determined by multiplying 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 projected revenue (from step 3) for each area. The results are listed in Tables A, B and C above. The SLSDC proposes to amend the pilotage rates in 33 CFR 404.405–410 with the rates obtained by multiplying the current pilotage rates times the rate multiplier calculated for each pilotage area.

The SLSDC also proposes to change the format for how pilotage rates are presented. Instead of the current format which describes basic pilotage fees in a paragraph format in 33 CFR 404.405 and 404.410, the SLSDC proposes to list pilotage fees in three easier to-read, point-to-point tables which will become §§ 404.405, 404.407 and 404.410, respectively. This format has the advantages of being more complete and less confusing than the old format. Pilotage charges are grouped by geographic area in roughly east-to-west order rather than by Designated Waters and Undesignated Waters. Also, pilotage charges which had to be inferred under the old format are specifically listed in the new format, such as the charge from Detour to Sault St. Marie, Michigan. The proposed format and charges are presented below in 33 CFR 404.405, 404.407 and 404.410.

The SLSDC also proposes to amend 33 CFR 404.400(a) and 404.405 by adding a metric equivalent to the current rates which list measurements in feet and miles. This addition is made to make pilotage rates easier to understand for the international community.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply. The Great Lakes Pilotage Act (46 U.S.C. 9305) provides for agreements with the appropriate agency of Canada to prescribe joint or identical pilotage rates and charges. The Secretary of Transportation and the Minister of Transport of Canada have signed a Memorandum of Agreement concerning Great Lakes Pilotage dated January 18, 1977, section 7 of which provides for the establishment of identical rates, charges and any other conditions or terms of service of pilots in the waters of the Great Lakes.

This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is considered to be substantive but nonsignificant under those procedures. All previous pilotage rate rulemakings have been considered nonsignificant except for the interim pilotage rate adjustment of June 5, 1992, (57 FR 23955). This interim adjustment was necessary because a new rate methodology was being designed and was significant because the interim rate adjustment was put in before the methodology was completed. The rate methodology has now been completed and 33 CFR § 407.1(b) requires that pilotage rates be reviewed annually.

The economic impact of this rulemaking is expected to be minimal so that a full economic evaluation is not warranted. Fees for Great Lakes registered pilotage service are paid almost exclusively by foreign vessels. Therefore, the effect of the proposed increase in Great Lakes pilotage rates will be borne almost exclusively by foreign vessels operators, not U.S. entities.

Regulatory Flexibility Act Determination

The SLSDC certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. As discussed above under ''Regulatory Evaluation,'' the SLSDC expects the impact of this proposed rule to be minimal. Also, since the vast majority of pilotage fees are paid by foreign vessels, any resulting costs will be borne almost exclusively by foreign vessel operators.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation 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.

List of Subjects in 33 CFR Parts 404 and 407

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

For reasons set out in the preamble, the SLSDC proposes to amend Part 404 and 407 of Title 33 of the Code of Federal Regulations as follows:

PART 404—[AMENDED]

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

Authority: 46 U.S.C. 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.52. 33 CFR 404.105 also is issued under the authority of 44 U.S.C. 3507.

2. Section 404.400(a) is revised to read as follows:

§ 404.400 Calculation of pilotage units and determination of weighing factors.

* * * * *

(a) Pilotage unit computation:

Pilot Unit=(Length×Breadth×Depth)/283.17 (measured in meters)

Pilot Unit=(Length×Breadth×Depth)/10,000 (measured in feet)

* * * * *

3. Section 404.405 is revised to read as follows:

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

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots in the St. Lawrence River and Lake Ontario:

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic pilotage	$7.74 [1] per kilometer or $12.47 [1] per mile.
Each lock transited	$166.[1]
Harbor movage	$547.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $364 and the maximum basic rate for a through trip is $1,597.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-hour period	$332
Docking/undocking	$317

4. Section 404.407 is added to read as follows:

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

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots 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	$345	$345
Docking/Undocking	$265	$265
Any Point on the Niagara River below the Black Rock Lock	N/A	$677

(b) Area 5 (Designated Waters):

Any point on/in	Southeast Shoal	Toledo or any port on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$1,018	$601	$1,322	$1,018	N/A
Port Huron Change Point	[1] 1,773	[1] 2,053	1,332	1,035	737
St. Clair River	[1] 1,773	N/A	1,332	1,332	601
Detroit or Windsor or the Detroit River	1,018	1,322	601	N/A	1,332
Detroit Pilot Boat	737	1,018	N/A	N/A	1,332

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

5. Section 404.410 is revised to read as follows:

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

Except as provided in § 404.420, the following basic rates are payable for all services and assignments performed by U.S. registered pilots on Lakes Huron, Michigan and Superior and the St. Mary's River:

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six-hour period	$279
Docking/undocking	$265

(b) Area 7 (Designated Waters):

Area	Detour	Gros Cap	Any Harbor
Gros Cap	$1,788	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	$1,788	$674	N/A
Any point in Sault Ste. Marie, Ontario except the Algoma Steel Corporation Wharf	$1,500	$674	N/A
Sault Ste. Marie, Michigan	$1,500	$674	N/A

Area	Detour	Gros Cap	Any Harbor
Harbor Movage	N/A	N/A	$674

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six Hour Period	$281
Docking/Undocking	$268

6. Section 404.420 is revised to read as follows:

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

(a) Except as provided in this section, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $54 for each hour or part of an hour during which each interruption or detention lasts with a maximum basic rate of $851 for each continuous 24 hour period during which the interruption or detention continues. There is no charge for an interruption or detention caused by ice, weather or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge may be made for an interruption or detention if the total interruption or detention ends during the 6 hour period for which a charge has been made under §§ 404.405–404.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $54 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $851 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $322;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $54 for each hour or part of an hour including the first hour, with a maximum basic rate of $851 for each 24 hour period.

§ 404.425 [Amended]

7. Section 404.425 is amended by replacing the term ''§§ 404.405, 404.410, and 404.420'' with the term ''§§ 404.405, 404.407, 404.410 and 404.420''.

8. Section 404.428 is revised to read as follows:

§ 404.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point, the ship shall pay at the rate of $329 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for these services. The change points to which this section applies are designated in § 404.450.

PART 407—[AMENDED]

9. The authority citation for Part 407 continues to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

10. Appendix A to Part 407, Step 1.C. and Step 5(2) are revised to read as follows:

Appendix A to Part 407—Ratemaking Analyses and Methodology

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Step 1.C.—Adjustment for Inflation or Deflation

(1) In making projections of future expenses, expenses that are subject to inflationary or deflationary pressures are adjusted. Costs not subject to inflation or deflation are not adjusted. Annual cost inflation or deflation rates will be projected to the succeeding navigation season, reflecting the gradual increase or decrease in costs throughout the year. The inflation adjustment will be based on the preceding year's change in the Consumer Price Index for the North Central Region of the United States.

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Step 5: * * *

(2) The allowed Return on Investment (ROI) is based on the preceding year's average annual rate of return for new issues of high grade corporate securities.

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Issued at Washington, D.C. on September 17, 1996.

Saint Lawrence Seaway Development Corporation.

Gail C. McDonald,

Administrator.

[FR Doc. 96–24489 Filed 9–24–96; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AI00

Claims Based on Exposure to Ionizing Radiation (Prostate Cancer and Any Other Cancer)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations concerning compensation for diseases claimed to be the result of exposure to ionizing radiation. This would implement a decision by the Secretary of Veterans Affairs that based on all evidence currently available to him prostate cancer and any other cancers are ''radiogenic diseases.'' The intended affect of this action is to add these conditions to the list of radiogenic diseases for service-connected compensation purposes.

DATES: Comments must be received on or before November 25, 1996.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154 Washington, DC 20420. Comments should indicate that they are in response to ''RIN 2900–AI00.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Program Management Staff, Compensation and Pension Service, Veterans Benefits