Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

In reviewing State submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State submission, to use VCS in place of a State submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 6, 2010.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2010–20583 Filed 8–18–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2010–0517]

RIN 1625–AB48

Great Lakes Pilotage Rates—2011 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to increase the rates for pilotage on the Great Lakes to generate sufficient revenue to cover allowable expenses, target pilot compensation, and return on investment. The proposed update reflects a projected August 1, 2011, increase in benchmark contractual wages and benefits and an adjustment for deflation. This rulemaking promotes the Coast Guard's strategic goal of maritime safety.

DATES: Comments and related material must reach the Docket Management Facility on or before September 20, 2010.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2010–0517 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. Paul M. Wasserman, Chief, Great Lakes Pilotage Division, Commandant (CG–5522), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1909, or by e-mail at *Paul.M.Wasserman@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0517), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2010–0517" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments 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 comments by mail and would like to know that 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 and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the

"Keyword" box insert "USCG–2010–0517" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

D. 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**.

II. Abbreviations

AMOU American Maritime Officers Union
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NEPA National Environmental Policy Act of 1969
NPRM Notice of proposed rulemaking
NVMC National Vessel Movement Center
OMB Office of Management and Budget

III. Background

This notice of proposed rulemaking (NPRM) is issued pursuant to Coast Guard regulations in 46 CFR Parts 401–404. Those regulations implement the Great Lakes Pilotage Act of 1960, 46 U.S.C. Chapter 93 ("the Act"), which requires foreign-flag vessels and U.S.-flag vessels engaged in foreign trade to use federally registered Great Lakes pilots while transiting the St. Lawrence Seaway and the Great Lakes system, and which requires the Secretary of Homeland Security to "prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services." 46 U.S.C. 9303(f). There is no minimum tonnage limit or exemption for these vessels, but the Coast Guard's interpretation is that the Act applies only to commercial vessels and not to recreational vessels.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage Districts. Pilotage in each District is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage to operate a pilotage pool. It is important to note that, while the Coast Guard sets rates, it does not control the actual compensation that pilots receive. This is determined by each of the three District associations, which use 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 Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority and, accordingly, is not included in the U.S. rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation No. 3385, as amended by Proclamation No. 3855, pursuant to the Act, to be waters in which pilots must at all times be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. Under the Act, pilots assigned to vessels in these areas are only required to "be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master." 46 U.S.C. 9302(a)(1)(B).

The Act requires annual reviews of pilotage rates and the setting of new rates at least once every five years, or sooner, if annual reviews show a need. 46 U.S.C. 9303(f), 46 CFR 404.1. To assist in calculating pilotage rates, the pilotage associations are required to submit to the Coast Guard annual financial statements prepared by certified public accounting firms. In addition, every fifth year, in connection with the mandatory rate adjustment, the Coast Guard obtains a full and independent audit of the accounts and records of the pilotage associations and prepare and submit financial reports relevant to the ratemaking process. In those years when a full ratemaking is conducted, the Coast Guard generates the pilotage rates using Appendix A to 46 CFR Part 404. Between the five-year full ratemaking intervals, the Coast Guard annually reviews the pilotage rates using Appendix C to Part 404, and adjusts rates when deemed appropriate. Terms and formulas used in Appendix A and Appendix C are defined in Appendix B to Part 404.

The last full ratemaking using the Appendix A methodology was published on April 3, 2006 (71 FR 16501). Since then, rates have been reviewed under Appendix C and adjusted annually: 2007 (72 FR 53158, Sep. 18, 2007); 2008 (interim rule 73 FR 15092, Mar. 21, 2008; final rule 74 FR 220, Jan. 5, 2009); 2009 (74 FR 35812, Jul. 21, 2009); 2010 (75 FR 7958, Feb. 23, 2010). The present rulemaking proposes a rate adjustment for the 2011 shipping season, based on an Appendix C review. At the conclusion of this ratemaking cycle, we anticipate publishing an NPRM proposing a rate adjustment based upon an Appendix A 5-year review and audit of the pilot association books and records.

As we stated in the NPRM for our 2010 Appendix C ratemaking, 74 FR 56153 at 56154 (Oct. 30, 2009), we had anticipated that the next Appendix A ratemaking would be completed in 2011. However, the current rulemaking is not an Appendix A review because the Coast Guard cannot use the audits conducted in 2009 in preparation for the next Appendix A review. Those audits were incomplete and inadequate for determining the expenses of the regulated associations or for use in ratemaking.

The Coast Guard has contracted for new audits that will be conducted during the 2010 navigation season. These audits will serve as the basis for the next Appendix A review, which we will undertake as soon as possible.

IV. Discussion of the Proposed Rule

The Act and Coast Guard pilotage regulations require that the Coast Guard, as delegated by the Secretary of Homeland Security, review the pilotage rates annually. If the annual review shows that pilotage rates are within a reasonable range of the base target pilot compensation set in the previous ratemaking, no adjustment to the rates will be initiated. However, if the annual review indicates that an adjustment is necessary, then the Coast Guard will establish new pilotage rates pursuant to 46 CFR 404.10.

A. Proposed Pilotage Rate Changes—Summarized

The Appendix C to 46 CFR 404 ratemaking methodology is intended for use during the years between Appendix A full ratemaking reviews and adjustments. This section summarizes the rate changes proposed for 2011, and then discusses in detail how the proposed changes were calculated under Appendix C.

We are proposing an increase across all Areas over the last pilotage rate adjustment. This reflects a projected August 1, 2011, increase in benchmark contractual wages and benefits and a deflation adjustment. This rate increase would not go into effect until August 1, 2011, after the current benchmark contracts expire. Actual rate increases vary by Area, and are summarized in Table 1.

TABLE 1—2011 AREA RATE CHANGES

If pilotage service is required in:	Then the proposed percentage increases over the current rate is:
Area 1 (Designated waters)	3.57
Area 2 (Undesignated waters)	3.77
Area 4 (Undesignated waters)	3.75
Area 5 (Designated waters)	3.52
Area 6 (Undesignated waters)	4.89
Area 7 (Designated waters)	3.56
Area 8 (Undesignated waters)	5.26

Rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420), and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428), have been increased by 6.51 percent in all Areas based upon the calculations appearing at Tables 19 through 21, which appear below.

B. Calculating the Rate Adjustment

The Appendix C ratemaking calculation involves eight steps:

Step 1: Calculate the total economic costs for the base period (*i.e.,* pilot compensation expense plus all other recognized expenses plus the return element) and divide by the total bridge hours used in setting the base period rates;

Step 2: Calculate the "expense multiplier," the ratio of other expenses and the return element to pilot compensation for the base period;

Step 3: Calculate an annual "projection of target pilot compensation" using the same procedures found in Step 2 of Appendix A;

Step 4: Increase the projected pilot compensation in Step 3 by the expense multiplier in Step 2;

Step 5: Adjust the result in Step 4, as required, for inflation or deflation;

Step 6: Divide the result in Step 5 by projected bridge hours to determine total unit costs;

Step 7: Divide prospective unit costs in Step 6 by the base period unit costs in Step 1; and

Step 8: Adjust the base period rates by the percentage changes in unit cost in Step 7.

The base data used to calculate each of the eight steps comes from the 2010 Appendix C review. The Coast Guard uses the most recent union contracts between the American Maritime Officers Union (AMOU) and vessel owners and operators on the Great Lakes to estimate target pilot compensation. However, the current AMOU contracts expire in July 2011, and the Coast Guard has been informed that contract negotiations will not begin until sometime that year, which is well after the pilotage statute requires that we establish a rate. Accordingly, we have reviewed the terms of both the existing and past AMOU contracts and have projected, for purposes of this ratemaking, that the AMOU contracts effective in 2011 would provide increases in compensation equal to 3 percent, which is the increase called for in the AMOU contracts over the last two years. We project all other benefits to remain fixed at current levels with the exception of medical plan contributions. Medical plan contributions have increased by 10 percent per year from 2006 through 2010 in the current AMOU contracts. Thus, we forecast an increase of 10 percent over 2010 medical plan contributions for the AMOU contracts in 2011. Bridge hour projections for the 2011 season have been obtained from historical data, pilots, and industry. All documents and records used in this rate calculation have been placed in the public docket for this rulemaking and are available for review at the addresses listed under **ADDRESSES**.

Some values may not total exactly due to format rounding for presentation in charts and explanations in this section. The rounding does not affect the integrity or truncate the real value of all calculations in the ratemaking methodology described below.

Step 1: Calculate the total economic cost for the base period. In this step, for each Area, we add the total cost of target pilot compensation, all other recognized expenses, and the return element (net income plus interest). We divide this sum by the total bridge hours for each Area. The result is the cost in each Area of providing pilotage service per bridge hour for the base period. Tables 2 through 4 summarize the Step 1 calculations:

TABLE 2—TOTAL ECONOMIC COST FOR BASE PERIOD (2010), AREAS IN DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario
Base operating expense (less base return element)	$578,569	$590,032
Base target pilot compensation	+ $1,677,397	+ $1,020,120
Base return element	+ $11,571	+ $17,701

TABLE 2—TOTAL ECONOMIC COST FOR BASE PERIOD (2010), AREAS IN DISTRICT ONE—Continued

	Area 1 St. Lawrence River	Area 2 Lake Ontario
Subtotal	= $2,267,537	= $1,627,853
Base bridge hours	÷ 5,203	÷ 5,650
Base cost per bridge hour	= $435.81	= $288.12

TABLE 3—TOTAL ECONOMIC COST FOR BASE PERIOD (2010), AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI
Base operating expense	$541,103	$848,469
Base target pilot compensation	+ $816,096	+ $1,677,397
Base return element	+ $27,055	+ $33,939
Subtotal	= $1,384,254	= $2,559,805
Base bridge hours	÷ 7,320	÷ 5,097
Base cost per bridge hour	= $189.11	= $502.22

TABLE 4—TOTAL ECONOMIC COST FOR BASE PERIOD (2010), AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior
Base operating expense	$877,638	$428,384	$691,435
Base target pilot compensation	+ $1,632,191	+ $1,118,265	+ $1,428,167
Base return element	+ $35,106	+ $12,852	+ $20,743
Subtotal	= $2,544,935	= $1,559,501	= $2,140,345
Base bridge hours	÷ 13,406	÷ 3,259	÷ 11,630
Base cost per bridge hour	= $189.84	= $478.52	= $184.04

Step 2. Calculate the expense multiplier. In this step, for each Area, we add the base operating expense and the base return element. Then, we divide the sum by the base target pilot compensation to get the expense multiplier for each Area. Tables 5 through 7 show the Step 2 calculations.

TABLE 5—EXPENSE MULTIPLIER, AREAS IN DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario
Base operating expense	$578,569	$590,032
Base return element	+ $11,571	+ $17,701
Subtotal	= $590,140	= $607,733
Base target pilot compensation	÷ $1,677,397	÷ $1,020,120
Expense multiplier	0.35182	0.59575

TABLE 6—EXPENSE MULTIPLIER, AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI
Base operating expense	$541,103	$848,469
Base return element	+ $27,055	+ $33,939
Subtotal	= $568,158	= $882,408
Base target pilot compensation	÷ $816,096	÷ $1,677,397
Expense multiplier	0.69619	0.52606

TABLE 7—EXPENSE MULTIPLIER, AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior
Base operating Expense	$877,638	$428,384	$691,435
Base return element	+ $35,106	+ $12,852	+ $20,743
Subtotal	= $912,744	= $441,236	= $712,178
Base target pilot compensation	÷ $1,632,191	÷ $1,118,265	÷ $1,428,167
Expense multiplier	0.55921	0.39457	0.49867

Step 3. Calculate annual projection of target pilot compensation. In this step, we determine the new target rate of compensation and the new number of pilots needed in each pilotage Area, to determine the new target pilot compensation for each Area.

(a) Determine new target rate of compensation. Target pilot compensation is based on the average annual compensation of first mates and masters on U.S. Great Lakes vessels. For pilots in undesignated waters, we approximate the first mates' compensation and, in designated waters, we approximate the master's compensation (first mates' wages multiplied by 150 percent plus benefits). To determine first mates' and masters' average annual compensation, we typically use data from the most recent AMOU contracts with the U.S. companies engaged in Great Lakes shipping. Where different AMOU agreements apply to different companies, we apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement.

As of July 2010, there are two current AMOU contracts, which we designate Agreement A and Agreement B. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Both Agreement A and Agreement B will expire on July 31, 2011. Based on discussions with AMOU officials, these contracts are not expected to be negotiated until 2011. This does not provide sufficient time to incorporate new rates into the ratemaking process for the 2011 shipping season. The Coast Guard projects that when new AMOU contracts are negotiated in 2011, they would provide for a 3 percent wage increase effective August 1, 2011. This is in keeping with the recent contractual wage raises under the existing union contracts. Both 2009 and 2010 saw wage raises of 3 percent. Under Agreement A, we project that the daily wage rate would increase from $270.61 to $278.73. Under Agreement B, the daily wage rate would increase from $333.58 to $343.59. All other benefits and calculations for these contracts are forecasted to remain identical to the current AMOU contracts. The pension plan contribution, which has been a fixed amount, the 401k employers matching contribution of 5 percent of wages, which is also a set amount, and the monthly contract multipliers are all projected to remain fixed at current AMOU contract levels. These benefits have not changed their numerical or percentage values over the course of the previous AMOU agreements still in effect. We do not project that the 2011 contracts would have any impact on these fixed benefits.

To calculate monthly wages, we apply Agreement A and Agreement B monthly multipliers of 54.5 and 49.5, respectively, to the daily rate. Agreement A's 54.5 multiplier represents 30.5 average working days, 15.5 vacation days, 4 days for four weekends, 3 bonus days, and 1.5 holidays. Agreement B's 49.5 multiplier represents 30.5 average working days, 16 vacation days, and 3 bonus days.

To calculate average annual compensation, we multiply monthly figures by 9 months, the length of the Great Lakes shipping season.

Table 8 shows new wage calculations based on projected Agreements A and B to be effective as of August 1, 2011.

TABLE 8—WAGES

Monthly component	Pilots on undesignated waters	Pilots on designated waters (undesignated × 150%)
AGREEMENT A: $278.73 daily rate × 54.5 days	$15,191	$22,786
AGREEMENT A: Monthly total × 9 months = total wages	136,716	205,074
AGREEMENT B: $343.59 daily rate × 49.5 days	17,008	25,511
AGREEMENT B: Monthly total × 9 months = total wages	153,068	229,602

Both Agreements A and B currently include a health benefits contribution rate of $88.76. On average, this benefit contribution has increased at a rate of 10 percent per year throughout the lives of the existing five-year contracts. Accordingly, for purposes of the 2011 rate we project that when new AMOU contracts are negotiated in 2011, this contribution would increase to $97.64 effective August 1, 2011. We project that Agreement A would continue to include a pension plan contribution rate of $33.35 per man-day and that Agreement B would continue to include a pension plan contribution rate of $43.55 per man-day. Similarly, we expect both Agreements A and B to continue to provide a 5 percent 401K employer matching provision. Accordingly, for purposes of the 2011 rate, we will continue to use these values in calculating total pilot compensation. Currently, neither Agreement A nor Agreement B includes a clerical contribution that appeared in earlier contracts, and we project that this would not be a feature of any new AMOU contracts negotiated in 2011. We project that the multiplier used to calculate monthly benefits would remain the same at 45.5 days.

Table 9 shows new benefit calculations based on projected Agreements A and B, effective August 1, 2011.

TABLE 9—BENEFITS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A: Employer contribution, 401(K) plan (Monthly Wages × 5%)	$759.53	$1,139.30
Pension = $33.35 × 45.5 days	$1,517.43	$1,517.43
Health = $97.64 × 45.5 days	$4,442.62	$4,442.62
AGREEMENT B: Employer contribution, 401(K) plan (Monthly Wages × 5%)	$850.38	$1,275.57
Pension = $43.55 × 45.5 days	$1,981.53	$1,981.53
Health = $97.64 × 45.5 days	$4,442.62	$4,442.62
AGREEMENT A: Monthly total benefits	= $6,719.58	= $7,099.35
AGREEMENT A: Monthly total benefits × 9 months	= $60,476	= $63,894
AGREEMENT B: Monthly total benefits	= $7,274.52	= $7,699.71
AGREEMENT B: Monthly total benefits × 9 months	= $65,471	= $69,297

TABLE 10—TOTAL WAGES AND BENEFITS

	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A: Wages	$136,716	$205,074
AGREEMENT A: Benefits	+ $60,476	+ $63,894
AGREEMENT A: Total	= $197,192	= $268,968
AGREEMENT B: Wages	$153,068	$229,602
AGREEMENT B: Benefits	+ $65,471	+ $69,297
AGREEMENT B: Total	= $218,539	= $298,900

Table 11 shows that approximately one third of U.S. Great Lakes shipping deadweight tonnage operates under Agreement A, with the remaining two thirds operating under Agreement B.

TABLE 11—DEADWEIGHT TONNAGE BY AMOU AGREEMENT

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

Table 12 applies the percentage of tonnage represented by each agreement to the wages and benefits provided by each agreement, to determine the projected target rate of compensation on a tonnage-weighted basis.

TABLE 12—PROJECTED TARGET RATE OF COMPENSATION, WEIGHTED

	Undesignated waters	Designated waters
AGREEMENT A: Total wages and benefits x percent tonnage.	$197,192 × 29.7238% = $58,613	$268,968 × 29.7238% = $79,948.
AGREEMENT B: Total wages and benefits x percent tonnage.	$218,539 × 70.2762% = $153,581	$298,900 × 70.2762% = $210,055.
Total weighted average wages and benefits = projected target rate of compensation.	$58,613 + $153,581 = $212,194	$79,948 + $210,055 = $290,003.

(b) Determine number of pilots needed. Subject to adjustment by the Coast Guard Director of Great Lakes Pilotage to ensure uninterrupted service, we determine the number of pilots needed for ratemaking purposes in each Area by dividing each Area's projected bridge hours, either by 1,000 (designated waters) or by 1,800 (undesignated waters).

Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. Based on historical data and information provided by pilots and industry, we project that vessel traffic in the 2011 navigation season, in Districts 1 and 2, would remain unchanged from the 2010 projections noted in Table 13 of the 2010 final rule. In District 3, in both Areas 6 and 8, dropping bridge hours require the removal of two unused authorizations for pilots, one for each Area. There are no pilots currently in either of these slots and no jobs are being lost as a result of this action. The removal of these two pilot billets merely attempts to mitigate a significant downward trend across the undesignated waters of District 3. The bridge hours for the designated waters of Area 7, like Districts 1 and 2, would remain unchanged from the 2010 projections.

Table 13, below, shows the projected bridge hours needed for each Area, and the total number of pilots needed for ratemaking purposes after dividing those figures either by 1,000 or 1,800. As in the previous three annual ratemakings, and for the reasons described in detail in the 2008 final rule (74 FR 220 at 221–222), we rounded up to the next whole pilot except in Area 2 where we rounded up from 3.14 to 5, and in Area 4 where we rounded down from 4.07 to 4.

TABLE 13—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2011 bridge hours	Divided by 1,000 (designated waters) or 1,800 (undesignated waters)	Pilots needed (total = 38)
Area 1	5,203	1,000	6
Area 2	5,650	1,800	5
Area 4	7,320	1,800	4
Area 5	5,097	1,000	6
Area 6	11,606	1,800	7
Area 7	3,259	1,000	4
Area 8	9,830	1,800	6

(c) Determine the projected target pilot compensation for each Area. The projection of new total target pilot compensation is determined separately for each pilotage Area by multiplying the number of pilots needed in each Area (see Table 13) by the projected target rate of compensation (see Table 12) for pilots working in that Area. Table 14 shows this calculation.

TABLE 14—PROJECTED TARGET PILOT COMPENSATION

Pilotage area	Pilots needed (total = 38)	Multiplied by target rate of compensation	Projected target pilot compensation
Area 1	6	× $290,003	$1,740,018
Area 2	5	× 212,194	1,060,970
Area 4	4	× 212,194	848,776
Area 5	6	× 290,003	1,740,018
Area 6	7	× 212,194	1,485,357
Area 7	4	× 290,003	1,160,012
Area 8	6	× 212,194	1,273,164

Step 4: Increase the projected pilot compensation in Step 3 by the expense multiplier in Step 2. This step yields a projected increase in operating costs necessary to support the increased projected pilot compensation. Table 15 shows this calculation.

TABLE 15—PROJECTED OPERATING EXPENSE

Pilotage area	Projected target pilot compensation	Multiplied by expense multiplier	Projected operating expense
Area 1	$1,740,018	× 0.35182	= $612,171
Area 2	1,060,970	× 0.59575	= 632,069
Area 4	848,776	× 0.69619	= 590,909
Area 5	1,740,018	× 0.52606	= 915,350
Area 6	1,485,357	× 0.55921	= 830,633
Area 7	1,160,012	× 0.39457	= 457,708
Area 8	1,273,164	× 0.49867	= 634,883

Step 5: Adjust the result in Step 4, as required, for inflation or deflation, and calculate projected total economic cost. Based on data from the U.S. Department of Labor's Bureau of Labor Statistics available at *http://www.bls.gov/xg_shells/ro5xg01.htm,* we have multiplied the results in Step 4 by a 0.994 deflation factor, reflecting an average deflation rate of 0.6 percent between 2008 and 2009, the latest years for which data are available. Table 16 shows this calculation and the projected total economic cost.

TABLE 16—PROJECTED TOTAL ECONOMIC COST

Pilotage area	A. Projected operating expense	B. Increase, multiplied by deflation factor (= A × 0.994)	C. Projected target pilot compensation	D. Projected total economic cost (= B + C)
Area 1	$612,171	$608,498	$1,740,018	$2,348,516
Area 2	632,069	628,277	1,060,970	1,689,246
Area 4	590,909	587,364	848,776	1,436,140
Area 5	915,350	909,858	1,740,018	2,649,876
Area 6	830,633	825,649	1,485,357	2,311,006
Area 7	457,708	454,962	1,160,012	1,614,974
Area 8	634,883	631,074	1,273,164	1,904,237

Step 6: Divide the result in Step 5 by projected bridge hours to determine total unit costs. Table 17 shows this calculation.

TABLE 17—TOTAL UNIT COSTS

Pilotage area	A. Projected total economic cost	B. Projected 2011 bridge hours	Prospective (total) unit costs (A divided by B)
Area 1	$2,348,516	5,203	$451.38
Area 2	1,689,246	5,650	298.98
Area 4	1,436,140	7,320	196.19
Area 5	2,649,876	5,097	519.89
Area 6	2,311,006	11,606	199.12
Area 7	1,614,974	3,259	495.54
Area 8	1,904,237	9,830	193.72

Step 7: Divide prospective unit costs (total unit costs) in Step 6 by the base period unit costs in Step 1. Table 18 shows this calculation, which expresses the percentage change between the total unit costs and the base unit costs. The results, for each Area, are identical with the percentage increases listed in Table 1.

TABLE 18—PERCENTAGE CHANGE IN UNIT COSTS

Pilotage area	A. Prospective unit costs	B. Base period unit costs	C. Percentage change from base (A divided by B; result expressed as percentage)
Area 1	$451.38	$435.81	3.57
Area 2	298.98	288.12	3.77
Area 4	196.19	189.11	3.75
Area 5	519.89	502.22	3.52
Area 6	199.12	189.84	4.89
Area 7	495.54	478.52	3.56
Area 8	193.72	184.04	5.26

We use the percentage change between the prospective overall unit cost and the base overall unit cost to increase rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420), and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428). This calculation is derived from the Appendix C ratemaking methodology found at 46 CFR 404.10, and differs from the area rate calculation by using total costs and total bridge hours for all areas. Tables 19 through 21 show this calculation.

TABLE 19—CALCULATION OF BASE PERIOD OVERALL UNIT COST

	A. Base period (2010) overall total economic costs	B. Base period (2010) overall bridge hours	C. Base period (2010) overall unit cost (A divided by B)
Sum of all Areas	$14,084,230	51,565	$273.14

TABLE 20—CALCULATION OF PROJECTED PERIOD OVERALL UNIT COST

	A. Projected period (2011) overall total economic costs	B. Projected period (2011) overall bridge hours	C. Base period (2011) overall unit cost (A divided by B)
Sum of all Areas	$13,953,996	47,965	$290.92

TABLE 21—PERCENTAGE CHANGE IN OVERALL PROSPECTIVE UNIT COSTS/BASE UNIT COST

	A. Prospective overall unit cost	B. Base period overall unit cost	C. Percentage change from overall base unit cost (A divided by B)
Across all Areas	$290.92	273.14	6.51

Step 8: Adjust the base period rates by the percentage change in unit costs in Step 7. Table 22 shows this calculation.

TABLE 22—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS

	A. Base period rate	B. Percentage change in unit costs	C. Increase in base rate (A × B%)	D. Adjusted rate (A + C, rounded to nearest dollar)
*Pilotage area		(Multiplying Factor)		
Area 1:		3.57 (1.0357)		
—Basic pilotage	$17.73/km, $31.38/mi.		$0.63/km, $1.12/mi.	$18.36/km, $32.50/mi.
—Each lock transited	$393		$14.03	$407.
—Harbor movage	$1,287		$45.95	$1,333.
—Minimum basic rate, St. Lawrence River	$858		$30.63	$889.
—Maximum rate, through trip	$3,767		$134.48	$3,901.
Area 2:		3.77 (1.0377)		
—6-hr. period	$861		$32.46	$893.
—Docking or undocking	$821		$30.95	$852.
Area 4:		3.75 (1.0375)		
—6-hr. period	$762		$28.58	$791.
—Docking or undocking	$587		$22.01	$609.
—Any point on Niagara River below Black Rock Lock	$1,498		$56.18	$1,554.
Area 5 between any point on or in:		3.52 (1.0352)		
—Toledo or any point on Lake Erie W. of Southeast Shoal	$1,364		$48.01	$1,412.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal.	$2,308		$81.24	$2,389.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River.	$2,997		$105.49	$3,102.
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat.	$2,308		$81.24	$2,389.
—Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat).	$4,020		$141.50	$4,162.
—Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat).	$4,657		$163.93	$4,821.
—Port Huron Change Point & Detroit River	$3,020		$106.30	$3,126.
—Port Huron Change Point & Detroit Pilot Boat	$2,349		$82.68	$2,432.
—Port Huron Change Point & St. Clair River	$1,670		$58.78	$1,729.
—St. Clair River	$1,364		$48.01	$1,412.
—St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat).	$4,020		$141.50	$4,162.
—St. Clair River & Detroit River/Detroit Pilot Boat	$3,020		$106.30	$3,126.
—Detroit, Windsor, or Detroit River	$1,364		$48.01	$1,412.
—Detroit, Windsor, or Detroit River & Southeast Shoal	$2,308		$81.24	$2,389.
—Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal.	$2,997		$105.49	$3,102.
—Detroit, Windsor, or Detroit River & St. Clair River	$3,020		$106.30	$3,126.
—Detroit Pilot Boat & Southeast Shoal	$1,670		$58.78	$1,729.
—Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal.	$2,308		$81.24	$2,389.
—Detroit Pilot Boat & St. Clair River	$3,020		$106.30	$3,126.
Area 6:		4.89 (1.0489)		
—6-hr. period	$656		$32.08	$688.
—Docking or undocking	$623		$30.46	$653.

TABLE 22—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS—Continued

	A. Base period rate	B. Percentage change in unit costs	C. Increase in base rate (A × B%)	D. Adjusted rate (A + C, rounded to nearest dollar)
*Pilotage area	....	(Multiplying Factor)		
Area 7 between any point on or in:		3.56 (1.0356)		
—Gros Cap & De Tour	$2,559		$91.10	$2,650.
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	$2,559		$91.10	$2,650.
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap.	$964		$34.32	$998.
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour.	$2,145		$76.36	$2,221.
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap.	$964		$34.32	$998.
—Sault Ste. Marie, MI & De Tour	$2,145		$76.36	$2,221.
—Sault Ste. Marie, MI & Gros Cap	$964		$34.32	$998.
—Harbor movage	$964		$34.32	$998.
Area 8:		5.26 (1.0526)		
—6-hr. period	$578		$30.40	$608.
—Docking or undocking	$549		$28.88	$578.

* Rates for “Cancellation, delay or interruption in rendering services (§ 401.420)” and “Basic Rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (§ 401.428)” are not reflected in this table but have been increased by 6.51% across all areas (*see* Table 21).

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 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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. A draft Regulatory Assessment follows:

The Coast Guard is required to conduct an annual review of pilotage rates on the Great Lakes and, if necessary, adjust these rates to align compensation levels between Great Lakes pilots and industry. See the “Background” section for a detailed explanation of the legal authority and requirements for the Coast Guard to conduct an annual review and provide possible adjustments of pilotage rates on the Great Lakes. Based on our annual review for this proposed rulemaking, we are adjusting the pilotage rates for the 2011 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment.

This proposed rule would implement rate adjustments for the Great Lakes system over the current rates adjusted in the 2010 final rule. These adjustments to Great Lakes pilotage rates meet the requirements set forth in 46 CFR Part 404 for similar compensation levels between Great Lakes pilots and industry. They also include adjustments for deflation and projected changes in association expenses to maintain these compensation levels.

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

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

We used 2006–2008 vessel arrival data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment to be 208 vessels that journey into the Great Lakes system. These vessels entered the Great Lakes by transiting through or in part of at least one of the pilotage areas before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 208 vessels, there were approximately 923 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2006–2008 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from pilotage revenues. These revenues represent the direct and indirect costs (“economic costs”) that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage.

We estimate the additional impact (costs or savings) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs based on the 2010 rate adjustment and the total projected revenue needed to cover costs in this proposed rule for 2011. Table 23 details additional costs or savings by area.

TABLE 23—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE PROPOSED RULE BY AREA

[$U.S.; non-discounted]

	Total projected expenses in 2010	Change in projected expenses	Total projected expenses in 2011	Additional cost or savings of this rulemaking
Area 1	$2,267,537	1.0357	$2,348,516	$80,979
Area 2	1,627,853	1.0377	1,689,246	61,393
Area 4	1,384,253	1.0375	1,436,140	51,887
Area 5	2,559,805	1.0352	2,649,876	90,071
Area 6	2,544,935	0.9081	2,311,006	(233,929)
Area 7	1,559,501	1.0356	1,614,974	55,473
Area 8	2,140,345	0.8897	1,904,237	(236,108)

NOTES to Table 23:
Some values may not total due to rounding.
See "B. Calculating the Rate Adjustment" for further details on the rate adjustment methodology.
"Additional Cost or Savings of this Rulemaking" = "Total Projected Expenses in 2011" minus "Total Projected Expenses in 2010."

After applying the rate change in this proposed rule, the resulting difference between the projected revenue in 2010 and the projected revenue in 2011 is the annual impact to shippers from this rule. This figure would be equivalent to the total additional payments or savings that shippers would incur for pilotage services from this proposed rule. As discussed earlier, we consider a reduction in payments to be a cost savings.

The impact of the rate adjustment in this proposed rule to shippers varies by area. The annual costs of the rate adjustments range from $51,887 to $90,071 for most affected Areas. However, Areas 6 and 8 would experience annual cost savings of approximately $234,000 and $236,000, respectively. The annual savings is due to a projected decrease in the number of billeted pilots in Areas 6 and 8 from 2010 to 2011. This decrease in the number of pilots would reduce the projected revenue needed to cover costs of pilotage services in Areas 6 and 8.

To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less depending on the distance and port arrivals of their vessels' trips. However, the annual cost or savings reported above does capture all of the additional cost the shippers face as a result of the rate adjustment in this rule.

This proposed rate adjustment would result in a savings for Areas 6 and 8 that would outweigh the combined costs of the other areas. We measure the impact of this rulemaking by examining the changes in costs to shippers for pilotage services. With savings in Areas 6 and 8 exceeding the combined costs in other Areas, the net impact of this rulemaking would be a cost savings for pilotage services in the Great Lakes system. The overall impact of the proposed rule would be a cost savings to shippers of about $130,000 if we sum across all affected areas.

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 impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

We expect entities affected by the proposed rule would be classified under the North American Industry Classification System (NAICS) code subsector 483–Water Transportation, which includes one or all of the following 6-digit NAICS codes for freight transportation: 483111–Deep Sea Freight Transportation, 483113–Coastal and Great Lakes Freight Transportation, and 483211–Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and employing less than 500 employees is considered a small entity.

For the proposed rule, we reviewed recent company size and ownership data from 2006–2008 Coast Guard MISLE data and business revenue and size data provided by Reference USA and Dunn and Bradstreet. We were able to gather revenue and size data or link the entities to large shipping conglomerates for 22 of the 24 affected entities in the United States. We found that large, mostly foreign-owned, shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by 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 system. Two of the associations operate as partnerships and one operates as a corporation. These associations are classified with the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees: approximately 65 total employees combined. We expect no adverse impact 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.

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

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the proposed rule so that they could 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 call Mr. Paul M. Wasserman, Chief, Great Lakes Pilotage Division, Commandant (CG–5522), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1909, or by e-mail at *Paul.M.Wasserman@uscg.mil.* 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 rule does not change the burden in the collection currently approved by the Office of Management and Budget (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 State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism because States are expressly prohibited by 46 U.S.C. 9306 from regulating pilotage on the Great Lakes.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not affect 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 rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may 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 does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This 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 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which 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 rule is categorically excluded under section 2.B.2, 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 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 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; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

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

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$18.36 per kilometer or $32.50 per mile*.
Each Lock Transited	407*.
Harbor Movage	1,333*.

*The minimum basic rate for assignment of a pilot in the St. Lawrence River is $889, and the maximum basic rate for a through trip is $3,901.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$893
Docking or Undocking	852

3. In § 401.407, revise paragraphs (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	$791	$791
Docking or Undocking	609	609
Any Point on the Niagara River below the Black Rock Lock.	N/A	1,554

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,389	$1,412	$3,102	$2,389	N/A
Port Huron Change Point	*4,162	*4,821	3,126	2,432	1,729
St. Clair River	*4,162	N/A	3,126	3,126	1,412
Detroit or Windsor or the Detroit River	2,389	3,102	1,412	N/A	3,126
Detroit Pilot Boat	1,729	2,389	N/A	N/A	3,126

*When pilots are not changed at the Detroit Pilot Boat.

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

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

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six-Hour Period	$688
Docking or Undocking	653

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any harbor
Gros Cap	2,650	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	2,650	998	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,221	998	N/A
Sault Ste. Marie, MI	2,221	998	N/A

Area	De Tour	Gros Cap	Any harbor
Harbor Movage	N/A	N/A	998

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$608
Docking or Undocking	578

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the text "$119" and add, in its place, the text "$127"; and remove the text "$1,867" and add, in its place, the text "$1,989";

b. In paragraph (b), remove the text "$119" and add, in its place, the text "$127"; and remove the text "$1,867" and add, in its place, the text "$1,989"; and

c. In paragraph (c)(1), remove the text "$705" and add, in its place, the text "$751"; and in paragraph (c)(3), remove the text "$119" and add, in its place, the text "$127", and remove the text "$1,867" and add, in its place, the text "$1,989".

§ 401.428 [Amended]

6. In § 401.428, remove the text "$719" and add, in its place, the text "$766".

Dated: August 11, 2010.

Dana A. Goward,

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

[FR Doc. 2010–20544 Filed 8–16–10; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2010–0052; 92220–1113–0000C5]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To Remove the Stephens' Kangaroo Rat From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to remove the Stephens' kangaroo rat (*Dipodomys stephensi*) from the Federal List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended. After a review of the best available scientific and commercial information, we find that delisting the Stephens' kangaroo rat is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the Stephens' kangaroo rat or its habitat at any time. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on August 19, 2010.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R8–ES–2010–0052. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**); by telephone at 760–431–9440; or by facsimile at 760–431–9624. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Federal List of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that delisting the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal List of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish 12-month findings in the **Federal Register**.

Previous Federal Actions

We listed Stephens' kangaroo rat as endangered on September 30, 1988 (53 FR 38465). We published a draft recovery plan for the Stephens' kangaroo rat on June 23, 1997 (62 FR 33799; Service 1997, pp. 1–71), but it has not been finalized. The draft recovery plan provides recovery guidance and a benchmark for delisting the species (Service 1997, p. 53), consisting of:

(1) Establishment of a minimum of five reserves, one of which is ecosystem-based, in western Riverside County, California, that encompass at least 6,675 hectares (ha) (16,500 acres (ac)) of occupied habitat that are permanently protected, funded, and managed; and

(2) Establishment of two ecosystem-based reserves in San Diego County, California, one in the Western Conservation Planning Area and one reserve in the Central Conservation Planning Area, which are permanently protected, funded, and managed.

Neither criteria have been met at this time. Discussion of the criteria and their applicability are discussed in the *Recovery Planning and Implementation* section below.

On May 1, 1995, we received a first petition, dated April 26, 1995, from the Riverside County Farm Bureau (RCFB) requesting that the Stephens' kangaroo rat be removed from the Federal List of Endangered and Threatened Wildlife (in other words, delisted) under the Act.