

amount of the penalty and assessment is set at an amount at or sufficiently close to the maximum permitted by §§ 402.105(a) and 402.107 to reflect that fact.

(d)(1) The standards set forth in this section are binding, except to the extent that their application would result in imposition of an amount that would exceed limits imposed by the United States Constitution.

(2) The amount imposed is not less than the approximate amount required to fully compensate the United States, or any State, for its damages and costs, tangible and intangible, including but not limited to the costs attributable to the investigation, prosecution, and administrative review of the case.

(3) Nothing in this section limits the authority of HCFA or OIG to settle any issue or case as provided by § 402.19 or to compromise any penalty and assessment as provided by § 402.115.

§ 402.113 When a penalty and assessment are collectible.

A civil money penalty and assessment become collectible after the earliest of the following:

(a) Sixty days after the respondent receives HCFA's or OIG's notice of proposed determination under § 402.7, if the respondent has not requested a hearing before an ALJ.

(b) Immediately after the respondent abandons or waives his or her appeal right at any administrative level.

(c) Thirty days after the respondent receives the ALJ's decision imposing a civil money penalty or assessment under § 1005.20(d) of this title, if the respondent has not requested a review before the DAB.

(d) If the DAB grants an extension of the period for requesting the DAB's review, the day after the extension expires if the respondent has not requested the review.

(e) Immediately after the ALJ's decision denying a request for a stay of the effective date under § 1005.22(b) of this title.

(f) If the ALJ grants a stay under § 1005.22(b) of this title, immediately after the judicial ruling is completed.

(g) Sixty days after the respondent receives the DAB's decision imposing a civil money penalty if the respondent has not requested a stay of the decision under § 1005.22(b) of this title.

§ 402.115 Collection of penalty or assessment.

(a) Once a determination by HHS has become final, HCFA is responsible for the collection of any penalty or assessment.

(b) The General Counsel may compromise a penalty or assessment

imposed under this part, after consultation with HCFA or OIG, and the Federal government may recover the penalty or assessment in a civil action brought in the United States district court for the district where the claim was presented or where the respondent resides.

(c) The United States or a State agency may deduct the amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, from any sum then or later owing to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(e) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

Subpart C—Exclusions [Reserved]

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Program No. 93.778, Medical Assistance Program)

Dated: July 7, 1998.

Nancy-Ann Min De Parle,

Administrator, Health Care Financing Administration.

[FR Doc. 98-33010 Filed 12-11-98; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG-1998-4874]

Great lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Notice of annual review findings; request for comments.

SUMMARY: The Coast Guard conducted a review of Great Lakes pilotage rates. Based on the results of this review, the Coast Guard concluded that no changes were necessary to the Great Lakes pilotage rates for the 1998 navigation season. The Coast Guard is interested in comments on the 1998 Rate Review.

DATES: Comments must reach the Docket Management Facility on or before February 12, 1999.

ADDRESSES: You may mail your comments to the Docket Management Facility, (USCG-1998-4874), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-0001, or deliver

them to room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this notice. Comments, and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact John Bennett, Office of Great Lakes Pilotage, 400 7th Street SW., Suite 5421, Washington, DC 20590, (202) 366-8986. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments on the findings presented in this notice. Persons submitting comments should include their names and addresses, identify this notice (USCG-1998-4874) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period.

Background and Purpose

On May 9, 1996, the Department of Transportation (DOT) published a final rule entitled "Great Lakes Pilotage Rate Methodology" in the **Federal Register** (61 FR 21081). This rule established the DOT's procedures and methodology for determining Great Lakes pilotage rates.

The regulations governing Great Lakes pilotage rates (46 CFR Part 404) require

an annual review of the rates. This notice announces that the review of Great Lakes pilotage rates was completed. A copy of this review is available in the docket for inspection or copying where indicated under

ADDRESSES or by contacting John Bennett at the address listed under **FOR FURTHER INFORMATION CONTACT**.

The review indicates 1998 pilotage rates to be within a reasonable range of their target.

Dated: December 7, 1998.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98-33078 Filed 12-11-98; 8:45 am]

BILLING CODE 4910-15-M