State and county	Location and Case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Rutherford	Unincorporated areas of Rutherford County (09–04–3370P).	July 8, 2009; July 15, 2009; *Daily News Journal.*	The Honorable Ernest Burgess, Mayor, Rutherford County, County Courthouse, Room 101, Murfreesboro, TN 37130.	November 12, 2009	470165
Rutherford	Town of Smyrna (09–04–2810P).	July 8, 2009; July 15, 2009; *Daily News Journal.*	The Honorable Bobby G. Spivey, Mayor, Town of Smyrna, 315 South Lowry Street, Smyrna, TN 37167.	November 12, 2009	470169
Wilson	Unincorporated areas of Wilson County (09–04–3370P).	July 8, 2009; July 15, 2009; *Wilson Post.*	The Honorable Robert Dedman, County Mayor, Wilson County, 228 East Main Street, Lebanon, TN 37087.	November 12, 2009	470165
Texas:					
McLennan	Unincorporated areas of McLennan County (09–06–0597P).	June 26, 2009; July 3, 2009; *Waco Tribune Herald.*	The Honorable Jim Lewis, McLennan County Judge, P.O. Box 1728, Waco, TX 76701.	November 2, 2009	480456
McLennan	City of Waco (09–06–0597P).	June 26, 2009; July 3, 2009; *Waco Tribune Herald.*	The Honorable Virginia DuPuy, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	November 2, 2009	480461
Travis	City of Pflugerville (09–06–1373P).	July 23, 2009; July 30, 2009; *Pflugerville Pflag.*	The Honorable Jeff Coleman, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78691.	November 30, 2009	481028
Virginia: Loudoun	Town of Leesburg (08–03–1561P).	June 24, 2009; July 1, 2009; *Loudoun Times Mirror.*	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, P.O. Box 88, Leesburg, VA 20178.	October 29, 2009	510091
Wyoming: Sweetwater.	City of Rock Springs (09–08–0320P).	July 14, 2009; July 21, 2009; *Rock Springs Daily Rocket Miner.*	The Honorable Timothy A. Kaumo, Mayor, City of Rock Springs, 212 D Street, Rock Springs, WY 82901.	November 18, 2009	560051

(Catalog of Federal Domestic Assistance No. 97.022, “Flood Insurance.”)

Sandra K. Knight,

Deputy Assistant Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2010–3440 Filed 2–22–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2009–0883]

RIN 1625–AB39

2010 Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is increasing the rates for pilotage service on the Great Lakes by an average of 5.07% to generate sufficient revenue to cover allowable expenses, target pilot compensation, and return on investment. This increase reflects an August 1, 2010, increase in benchmark contractual wages and benefits and an adjustment for inflation. This rulemaking promotes the Coast Guard strategic goal of maritime safety.

DATES: This final rule is effective August 1, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0883 and are available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2009–0883 in the “Keyword” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: For questions on this final rule, please call Mr. Paul Wasserman, Chief, Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1909, or e-mail *Paul.M.Wasserman@uscg.mil.* For questions on viewing or submitting material to the docket, call Renee V. Wright, Chief, Dockets, Department of Transportation, telephone 202–493–0402.

Table of Contents for Preamble

I. Abbreviations

AMOU American Maritime Officer Union
GLPAC Great Lakes Pilotage Advisory Committee
MISLE Coast Guard Marine Inspection, Safety, and Law Enforcement system
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget

II. Regulatory History

On October 30, 2009, we published a notice of proposed rulemaking entitled Great Lakes Pilotage Rates—2010 Annual Review and Adjustment in the **Federal Register** (NPRM, 74 FR 56153). We received five comments on the proposed rule. No public meeting was requested and none was held.

III. Background

We published a notice of proposed rulemaking on October 30, 2009 (NPRM, 74 FR 56153). The NPRM proposed an average 5.07% rate increase.

This rulemaking increases Great Lakes pilotage rates in accord with the methodology contained in Coast Guard regulations in 46 CFR parts 401–404. Our regulations implement the Great

Lakes Pilotage Act of 1960 ("the Act"), 46 U.S.C. Chapter 93, which requires foreign-flag vessels engaged in foreign trade to use U.S. registered pilots while transiting the St. Lawrence Seaway and the Great Lakes system. The Act also 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," and requires annual rate reviews to be completed by March 1 of each year, with a "full ratemaking" to establish new base rates at least once every five years. 46 U.S.C. 9303(f).

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 we set rates, we do not control the actual number of pilots an association maintains, so long as the association is able to provide safe, efficient, and reliable pilotage service, nor do we 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, pursuant to the Great Lakes Pilotage Act of 1960, 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).

Our pilotage regulations implement the Act's requirement for annual reviews of pilotage rates and a full ratemaking at least once every five years. 46 CFR 404.1. To assist in calculating pilotage rates, the regulations require pilotage associations to submit annual financial statements prepared by certified public accounting firms. In addition, every fifth year, in connection with the full ratemaking, we contract with an independent accounting firm to conduct a full 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, we generate the pilotage rates using Appendix A to 46 CFR part 404. The last Appendix A review was concluded in 2006 (71 FR 16501, Apr. 3, 2006). Between the five-year full ratemaking intervals, we annually review the pilotage rates using Appendix C to part 404, and adjust rates when deemed appropriate. We conducted Appendix C reviews in 2007, 2008 and 2009 and increased rates in each year. The 2009 final rule was published on July 21, 2009 (74 FR 138), and took effect on August 1, 2009. We define the terms and formulas used in Appendix A and Appendix C in Appendix B to part 404.

This final rule concludes the annual Appendix C rate review for 2010, and increases rates by an average of 5.07% over the rates that took effect August 1, 2009.

IV. Discussion of Comments and Changes

Five comments were submitted during the NPRM public comment period.

Ratemaking methodology. One commenter recommended that we suspend any further action on this rulemaking until full consideration can be given to comments received in response to our July 21, 2009, request for public comments ("Great Lakes Pilotage Ratemaking Methodology," 74 FR 35838). In July, we requested comments on the adequacy of our current ratemaking methodology in light of the realities of Great Lakes commercial shipping and the need to fairly balance competing considerations. We noted that any comments would be referred to the Great Lakes Pilotage Advisory Committee (GLPAC), a group created by the Great Lakes Pilotage Act to advise us on significant issues relating to Great Lakes pilotage. GLPAC will review our methodology and the comments received in response to our notice, and may recommend changes. If we accept their recommendations, any changes would require regulatory action. GLPAC has just begun reviewing comments. As yet there is no timeline for any GLPAC recommendations and no rulemaking underway to modify the methodology. Therefore, we cannot complete the "full consideration" mentioned by the commenter before March 1, 2010, the Act's deadline for establishing any annual rate adjustment for 2010. The Act provides no exception to the March 1 deadline for consideration of possible changes to the existing rate review process. Thus, we cannot suspend work on this rulemaking without violating the law.

Another commenter reiterated comments the commenter made during the 2007 and 2009 rate reviews. In 2007, we explained our reasons for disagreeing with this commenter's analysis of the "150% factor" for designated waters; 2007 interim rule, 72 FR 8115 at 8117 (Feb. 23, 2007) and 2007 Final Rule, 72 FR 53158 at 53159 (July 18, 2007). In the 2009 final rule, we explained our reasons for disagreeing with this Commenter on the "Riker Report" on bridge hour calculations; 74 FR 35812 at 35814. As no new substantive information has been added, we will not repeat those earlier explanations. The commenter's suggestion that we amend the vessel weighting factor table in 46 CFR 401.400 is beyond the scope of this ratemaking.

Two commenters reiterated past comments about our use of rounding in bridge hour calculations, without adding new information. We fully discussed our use of rounding in the 2009 final rule, specifically with reference to Area 4, which is of particular concern to one of these commenters, and we will not repeat that discussion; 74 FR 35812 at 35813. The Area 4 calculations have not changed since the 2009 final rule.

A commenter said that our ratemaking is arbitrary and capricious because we count delay and detention in calculating bridge hours for Areas 6, 7, and 8, but not in Areas 4 and 5. No information was provided to substantiate this claim, which runs counter to our discussion of bridge hour calculations in ratemaking documents over many years, and which repeats an allegation made in 2007 and refuted in that year's interim rule: "The Coast Guard has never considered delay, detention, or travel time to be included in the definition of bridge hours and has never knowingly included these items in its bridge hour computations"; 72 FR 8115 at 8117, Feb. 23, 2007. Coast Guard did not consider delay, detention, or travel time in its bridge hour computations in this final rule.

Effective date. Another commenter stated that the Act requires any 2010 rate adjustment to take effect by March 1, 2010. The comment acknowledged that this is not the Coast Guard's interpretation of the Act. In our view, 46

U.S.C. 9303(f) only requires us to publish a rule announcing the 2010 rate adjustment by March 1, 2010; the rule's effective date should be delayed until the event triggering the need for adjustment actually takes place. In this case, the triggering event will be the benchmark contract changes that do not take effect until August 1, 2010. This commenter also said that, even under the Coast Guard's interpretation of the Act, some relevant rate factors have already changed. The commenter mentions bridge hour projections (discussed subsequently) and cost of living (which is determined using 2007 and 2008 data). However, the inflation factor is merely one of three components that make up projected total economic costs and has a minimal effect on the rate calculation. We decline to adjust the rates to reflect only minimal changes.

Supporting data. One commenter found it impossible to verify the calculations made in our NPRM. He mentioned the absence from the docket of two benchmark contracts and the absence of supporting documentation for the inflation factor used in our calculations. The two contracts were placed in the docket maintained by the Docket Management Facility on November 25, 2009, prior to the close of the public comment period. The NPRM, 74 FR 56153 at 56156, identified the parties to both contracts and accurately represented their terms. This enabled the commenter to verify the accuracy of our data, prior to November 25, 2009, by contacting any of the contractual parties. The data supporting the inflation factor did not appear in the docket maintained by the Docket Management Facility until December 2, 2009, after the close of the public comment period. However, the NPRM, 74 FR 56153 at 56159, identified Bureau of Labor Statistics (BLS) Midwest consumer price data as the source of our calculations, and this data was at all times available from the BLS Web site, *http://www.bls.gov.*

This same commenter also said that projected bridge hours for 2010 should be based on actual bridge hours for 2009 to date, along with results of consultations with stakeholders, including the shipping industry. Another commenter asked why we did not use 2009 actual hours. As stated in the NPRM, 74 FR 56153 at 56158, our 2010 projections are based on historical data (by which we mean actual figures for complete past shipping seasons) and information provided both by pilots and industry. To meet the Act's March 1 deadline for completion of each year's rate review, with a final rule that meets all applicable requirements of the Federal regulatory process, Coast Guard data collection for the following year's review typically begins in the early spring of the preceding year. Given that reality, it is impracticable for the Coast Guard to base NPRM projections for the next year on actual results from the preceding year. The commenter's estimate of a 25% drop in shipping traffic between 2008 and 2009 does not provide us with sufficiently detailed data on which to base a revision of our 2010 projections in this final rule. We do expect verified and complete 2009 actual data to inform our 2011 ratemaking.

District One pilot boat. Another commenter expressed a desire to have District One's purchase of a new pilot boat reflected in the 2010 rate adjustment, or as soon as possible. This comment is beyond the scope of this ratemaking, which is being conducted pursuant to our Appendix C methodology, because it asks for action that can be taken only under an Appendix A full ratemaking. The next Appendix A review is already in progress. It will be based on a 2008 audit of pilot association expenses. This could present a timing problem from District One's perspective, because their boat expenses did not begin until 2009 and therefore would not be captured in the 2008 audit data. Presumably to address that timing problem, in March 2009, District One petitioned the Coast Guard for a "modified" Appendix A review that could focus specifically on the pilot boat purchase. We could not grant that petition because there are no provisions for "modifying" Appendix A without conducting a rulemaking to make the modifications. However, we are mindful of the importance of this issue for District One, and we will ask GLPAC for its recommendations on how best to proceed, as part of GLPAC's consideration of public comments received in response to our July 2009 ratemaking methodology notice.

Miscellaneous. A commenter asked us to refer to "U.S. registered pilots" instead of "federally registered Great Lakes pilots" and we have done so.

V. Discussion of the Final Rule

A. Summary

We are increasing pilotage rates in accordance with the methodology outlined in Appendix C to 46 CFR part 404, by increasing rates an average 5.07% over the 2009 final rule, effective August 1, 2010. The new rates are unchanged from what we proposed in the NPRM. Table 1 shows the new rates for each Area.

TABLE 1—2010 AREA RATE CHANGES

If pilotage service is required in:	Then the proposed percentage increases over the current rate is:
Area 1 (Designated waters)	4.65
Area 2 (Undesignated waters)	5.33
Area 4 (Undesignated waters)	5.47
Area 5 (Designated waters)	4.96
Area 6 (Undesignated waters)	5.27
Area 7 (Designated waters)	4.73
Area 8 (Undesignated waters)	5.17
Overall Rate Change (percentage change in overall prospective unit costs/base unit costs; see Table 18)	5.07

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 5.07% in all Areas.

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 2009 Appendix C review. The Coast Guard also used the most recent union contracts between the American Maritime Officers Union (AMOU) and vessel owners and operators on the Great Lakes to determine target pilot compensation. Bridge hour projections for the 2010 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. Also, please note that in previous rulemakings we calculated an expense multiplier for each District. This was unnecessary because Appendix C calculations are based on area figures, not district figures. District figures, where they are shown in the following tables, now reflect only the arithmetical totals for each of the district's areas.

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 (2009), AREAS IN DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total* District One
Base operating expense (less base return element)	$538,155	$547,489	$1,085,644
Base target pilot compensation	+ $1,617,955	+ $981,589	+ $2,599,544
Base return element	+ $10,763	+ $16,425	+ $27,188
Subtotal*	= $2,166,873	= $1,545,503	= $3,712,376
Base bridge hours	÷ 5,203	÷ 5,650	÷ 10,853
Base cost per bridge hour	= $416.47	= $273.54	= $342.06

* As explained in the text preceding Step 1, District totals have been expressed differently from previous rulemakings. This accounts for slight differences between the District totals shown in Table 16 of the 2009 final rule and the District totals shown in this table.

TABLE 3—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total* District Two
Base operating expense	$502,087	$789,202	$1,291,289
Base target pilot compensation	+ $785,271	+ $1,617,955	+ $2,403,226
Base return element	+ $25,104	+ $31,568	+ $56,672
Subtotal	= $1,312,463	= $2,438,725	= $3,751,188
Base bridge hours	÷ 7,320	÷ 5,097	÷ 12,417
Base cost per bridge hour	= $179.30	= $478.46	= $302.10

* See footnote to Table 2.

TABLE 4—TOTAL ECONOMIC COST FOR BASE PERIOD (2009), AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total* District Three
Base operating expense	$814,358	$398,461	$641,580	$1,854,399
Base target pilot compensation	+ $1,570,542	+ $1,078,637	+ $1,374,224	+ $4,023,403
Base return element	+ $32,574	+ $11,954	+ $19,247	+ $63,776
Subtotal	= $2,417,474	= $1,489,052	= $2,035,052	= $5,941,578
Base bridge hours	÷ 13,406	÷ 3,259	÷ 11,630	÷ 28,295
Base cost per bridge hour	= $180.33	= $456.90	= $174.98	= $209.99

* See footnote to Table 2.

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	Total District One
Base operating expense	$538,155	$547,489	$1,085,644
Base return element	+ $10,763	+ $16,425	+ $27,188
Subtotal	= $548,918	= $563,914	= $1,112,832
Base target pilot compensation	÷ $1,617,955	÷ $981,589	$2,599,544
Expense multiplier	0.33927	0.57449	Not applicable (n/a)

TABLE 6—EXPENSE MULTIPLIER, AREAS IN DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Base operating expense	$502,087	$789,202	$1,291,289
Base return element	+ $25,104	+ $31,568	+ $56,672
Subtotal	= $527,192	= $820,770	= $1,347,962
Base target pilot compensation	÷ $785,271	÷ $1,617,955	$2,403,226
Expense multiplier	0.67135	0.50729	n/a

TABLE 7—EXPENSE MULTIPLIER, AREAS IN DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Base operating Expense	$814,358	$398,461	$641,580	$1,854,399
Base return element	+ $32,574	+ $11,954	+ $19,247	+ $63,776
Subtotal	= $846,932	= $410,415	= $660,828	= $1,918,175
Base target pilot compensation	÷ $1,570,542	÷ $1,078,637	÷ $1,374,224	$4,023,403
Expense multiplier	0.53926	0.38049	0.48087	n/a

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% plus benefits). To determine first mates' and masters' average annual compensation, we 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 May 2009, 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 provide for a 3% wage increase effective August 1, 2010. Under Agreement A, the daily wage rate will be increased from $262.73 to $270.61. Under Agreement B, the daily wage rate will be increased from $323.86 to $333.57.

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 Agreements A and B effective August 1, 2010.

TABLE 8—WAGES

Monthly component	Pilots on undesignated waters	Pilots on designated waters (undesignated × 150%)
AGREEMENT A: $270.61 daily rate × 54.5 days	$14,748	$22,123
AGREEMENT A: Monthly total × 9 months = total wages	132,735	199,103
AGREEMENT B: $333.57 daily rate × 49.5 days	16,512	24,768
AGREEMENT B: Monthly total × 9 months = total wages	148,608	222,912

Both Agreements A and B include a health benefits contribution rate of $88.76 effective August 1, 2010. Agreement A includes a pension plan contribution rate of $33.35 per man-day. Agreement B includes a pension plan contribution rate of $43.55 per man-day. Both Agreements A and B provide a 401K employer matching rate, 5% of the wage rate. Neither Agreement A nor Agreement B includes a clerical contribution that appeared in earlier contracts. Per the AMOU, the multiplier used to calculate monthly benefits is 45.5 days.

Table 9 shows new benefit calculations based on Agreements A and B, effective August 1, 2010, and Table 10 totals the figures in Tables 8 and 9.

TABLE 9—BENEFITS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	$737.42	$1,106.13
Pension = $33.35 × 45.5 days	1,517.43	1,517.43
Health = $88.76 × 45.5 days	4,038.58	4,038.58
AGREEMENT B:		
Employer contribution, 401(K) plan (Monthly Wages × 5%)	825.60	1,238.40
Pension = $43.55 × 45.5 days	1,981.53	1,981.53
Health = $88.76 × 45.5 days	4,038.58	4,038.58
AGREEMENT A: Monthly total benefits	= 6,293.42	= 6,662.13
AGREEMENT A: Monthly total benefits × 9 months	= 56,641	= 59,959
AGREEMENT B: Monthly total benefits	= 6,845.71	= 7,258.51
AGREEMENT B: Monthly total benefits × 9 months	= 61,611	= 65,327

TABLE 10—TOTAL WAGES AND BENEFITS

	Pilots on undesignated waters	Pilots on designated waters
AGREEMENT A: Wages	$132,735	$199,103
AGREEMENT A: Benefits	+ 56,641	+ 59,959
AGREEMENT A: Total	= 189,376	= 259,062
AGREEMENT B: Wages	148,608	222,912
AGREEMENT B: Benefits	+ 61,611	+ 65,327
AGREEMENT B: Total	= 210,219	= 288,239

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

TABLE 11—DEADWEIGHT TONNAGE BY AMOU AGREEMENT—Continued

Company	Agreement A	Agreement B
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	$189,376 x 29.7238% = 56,290	259,062 x 29.7238% = 77,003
AGREEMENT B:		
Total wages and benefits x percent tonnage	210,219 x 70.2762% = 147,734	288,239 x 70.2762% = 202,563
Total weighted average wages and benefits = projected target rate of compensation	56,290 + 147,734 = 204,024	77,003 + 202,563 = 279,566

(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 2010 navigation season, in all areas, will remain unchanged from the 2009 projections noted in Table 13 of the 2009 final rule.

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 2008 and 2009, and for the same reasons, 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 2010 bridge hours	Divided by 1,000 (designated waters) or 1,800 (undesignated waters)	Pilots needed (total = 40)
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	13,406	1,800	8
Area 7	3,259	1,000	4
Area 8	11,630	1,800	7

(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 = 40)	Multiplied by target rate of compensation	Projected target pilot compensation
Area 1	6	x $279,566	$1,677,397
Area 2	5	x 204,024	1,020,120
Total, District One	11	n/a	2,697,517
Area 4	4	x 204,024	816,096
Area 5	6	x 279,566	1,677,397
Total, District Two	10	n/a	2,493,493
Area 6	8	x 204,024	1,632,191
Area 7	4	x 279,566	1,118,265
Area 8	7	x 204,024	1,428,167
Total, District Three	19	n/a	4,178,623

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	$1,677,397	× 0.33927	= $569,084
Area 2	1,020,120	× 0.57449	= 586,050
Total, District One	2,697,517	n/a	= 1,155,134
Area 4	816,096	× 0.67135	= 547,886
Area 5	1,677,397	× 0.50729	= 850,924
Total, District Two	2,493,493	n/a	= 1,398,810
Area 6	1,632,191	× 0.53926	= 880,177
Area 7	1,118,265	× 0.38049	= 425,493
Area 8	1,428,167	× 0.48087	= 686,767
Total, District Three	4,178,623	n/a	= 1,992,438

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 1.037 inflation factor, reflecting an average inflation rate of 3.7% between 2007 and 2008, 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 inflation factor (= A × 1.037)	C. Projected target pilot compensation	D. Projected total economic cost (= B + C)
Area 1	$569,084	$590,140	$1,677,397	$2,267,537
Area 2	586,050	607,733	1,020,120	1,627,853
Total, District One	1,155,134	1,197,874	2,697,517	3,895,390
Area 4	547,886	568,158	816,096	1,384,253
Area 5	850,924	882,408	1,677,397	2,559,805
Total, District Two	1,398,810	1,450,566	2,493,493	3,944,058
Area 6	880,177	912,744	1,632,191	2,544,935
Area 7	425,493	441,236	1,118,265	1,559,501
Area 8	686,767	712,178	1,428,167	2,140,345
Total, District Three	1,992,438	2,066,158	4,178,623	6,244,781

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 2009 bridge hours	Prospective (total) unit costs (A divided by B)
Area 1	$2,267,537	5,203	$435.81
Area 2	1,627,853	5,650	288.12
Total, District One	3,895,390	10,853	358.92
Area 4	1,384,253	7,320	189.11
Area 5	2,559,805	5,097	502.22
Total, District Two	3,944,058	12,417	317.63
Area 6	2,544,935	13,406	189.84
Area 7	1,559,501	3,259	478.52
Area 8	2,140,345	11,630	184.04
Total, District Three	6,244,781	28,295	20.70
Overall	14,084,230	51,565	273.14

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	$435.81	$416.47	4.65
Area 2	288.12	273.54	5.33
Total, District One	358.92	342.06	4.93
Area 4	189.11	179.30	5.47
Area 5	502.22	478.46	4.96
Total, District Two	317.63	302.10	5.14
Area 6	189.84	180.33	5.27
Area 7	478.52	456.90	4.73
Area 8	184.04	174.98	5.17
Total, District Three	220.70	209.99	5.10
Overall	273.14	259.97	5.07

Step 8: Adjust the base period rates by the percentage change in unit costs in Step 7. Table 19 shows this calculation.

TABLE 19—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS*

Pilotage	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)
Area		(Multiplying Factor)		
Area 1:		4.65 (1.0465)		
—Basic pilotage	$16.95/km, 29.99/mi		$0.78/km, 1.39/mi	$17.73/km, 31.38/mi
—Each lock transited	375.47		17.44	393
—Harbor movage	1,229.41		57.11	1,287
—Minimum basic rate, St. Lawrence River	820.04		38.09	858
—Maximum rate, through trip	3,599.58		167.20	3,767
Area 2:		5.33 (1.0533)		
—6-hr. period	817.63		43.56	861

TABLE 19—BASE PERIOD RATES ADJUSTED BY PERCENTAGE CHANGE IN UNIT COSTS*—Continued

Pilotage	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)
Area		(Multiplying Factor)		
—Docking or undocking	779.92		41.55	821
Area 4:		5.47 (1.0547)		
—6 hr. period	722.05		39.49	762
—Docking or undocking	556.46		30.44	587
—Any point on Niagara River below Black Rock Lock	1,420.45		77.69	1,498
Area 5 between any point on or in:		4.96 (1.0496)		
—Toledo or any point on Lake Erie W. of Southeast Shoal	1,299.46		64.51	1,364
—Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	2,198.99		109.16	2,308
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	2,855.20		141.74	2,997
—Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	2,198.99		109.16	2,308
—Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	3,829.80		190.12	4,020
—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)	4,436.82		220.26	4,657
—Port Huron Change Point & Detroit River	2,877.20		142.83	3,020
—Port Huron Change Point & Detroit Pilot Boat	2,237.82		111.09	2,349
—Port Huron Change Point & St. Clair River	1,590.68		78.97	1,670
—St. Clair River	1,299.46		64.51	1,364
—St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	3,829.80		190.12	4,020
—St. Clair River & Detroit River/Detroit Pilot Boat	2,877.20		142.83	3,020
—Detroit, Windsor, or Detroit River	1,299.46		64.51	1,364
—Detroit, Windsor, or Detroit River & Southeast Shoal	2,198.99		109.16	2,308
—Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	2,855.20		141.74	2,997
—Detroit, Windsor, or Detroit River & St. Clair River	2,877.20		142.83	3,020
—Detroit Pilot Boat & Southeast Shoal	1,590.68		78.97	1,670
—Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	2,198.99		109.16	2,308
—Detroit Pilot Boat & St. Clair River	2,877.20		142.83	3,020
Area 6:		5.27 (1.0527)		
—6 hr. period	622.93		32.84	656
—Docking or undocking	591.72		31.20	623
Area 7 between any point on or in:		4.73 (1.0473)		
—Gros Cap & De Tour	2,442.98		115.57	2,559
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	2,442.98		115.57	2,559
—Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap	920.03		43.52	964
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	2,047.67		96.87	2,145
—Any point in Sault Ste. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	920.03		43.52	964
—Sault Ste. Marie, MI & De Tour	2,047.67		96.87	2,145
—Sault Ste. Marie, MI & Gros Cap	920.03		43.52	964
—Harbor movage	920.03		43.52	964
Area 8:		5.17 (1.0517)		
—6 hr. period	549.44		28.42	578
—Docking or undocking	522.20		27.02	549

*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 5.07% across all areas.

VI. Regulatory Analyses

We developed this final 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

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. This rulemaking is not significant under Executive Order 12866 and has not been reviewed by OMB.

Public comments on the NPRM are summarized in Part IV of this publication. We received no public comments that would alter our assessment of the impacts discussed in the NPRM. We have adopted the assessment in the NPRM as final. See the "*Regulatory Analyses*" section of the NPRM for more details. A summary of the assessment follows.

This final rule would implement a 5.07 percent overall rate adjustment for the Great Lakes system over the current rate as adjusted in the 2009 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 inflation and 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. However, the Coast Guard issued a policy position several years ago stating 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 final 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.

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 three pilotage districts 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.

The impact of the rate adjustment to shippers is estimated from the district 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 of the rate adjustment in this final rule to be the difference between the total projected revenue needed to cover costs based on the 2009 rate adjustment and the total projected revenue needed to cover costs in this final rule for 2010. Table 20 details additional costs by area and district.

TABLE 20—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF FINAL RULE

[$U.S.; non-discounted][1]

	Total projected expenses in 2009	Proposed rate change	Total projected expenses in 2010[2]	Additional revenue or cost of this rulemaking[3]
Area 1	$2,166,873	1.0465	$2,267,537	$100,664
Area 2	1,545,503	1.0533	1,627,853	82,350
Total, District One	3,712,376	....	3,895,390	183,014
Area 4	1,312,463	1.0547	1,384,253	71,791
Area 5	2,438,725	1.0496	2,559,805	121,080
Total, District Two	3,751,188	....	3,944,058	192,870
Area 6	2,417,474	1.0527	2,544,935	127,461
Area 7	1,489,052	1.0473	1,559,501	70,449
Area 8	2,035,052	1.0517	2,140,345	105,293
Total, District Three	5,941,578	....	6,244,781	303,203
All Districts	13,405,142	....	14,084,230	679,088

[1] Some values may not total due to rounding.
[2] Rate changes are calculated for areas only. District totals reflect arithmetic totals and are for informational and discussion purposes. See discussion in final rule for further details.
[3] Additional Revenue or Cost of this Rulemaking = 'Total Projected Expenses in 2010'—'Total Projected Expenses in 2009'.

After applying the rate change in this final rule, the resulting difference between the projected revenue in 2009 and the projected revenue in 2010 is the annual impact to shippers from this final rule. This figure will be equivalent to the total additional payments that shippers will incur for pilotage services from this rule.

The impact of the rate adjustment in this final rule to shippers varies by area and district. The annual non-discounted costs of the rate adjustments in Districts 1, 2 and 3 would be approximately $183,000 and $193,000, and $303,000. To calculate an exact cost 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 reported above does capture all of the additional cost the shippers face as a result of the rate adjustment in this rule.

As Table 20 indicates, all areas will experience an increased annual cost due to this final rule. The overall impact of the final rule would be an additional cost to shippers of just over $679,000 across all three districts, due primarily to an increase in benchmark contractual wages and benefits and an inflation adjustment.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final 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.

In the NPRM, we certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no public comments that would alter our certification in the NPRM. We have found no additional data or information that would change our findings in the NPRM. We have adopted the certification in the NPRM for this final rule. See the "Small Entity" section of the NPRM for additional details. A summary of the NPRM analysis follows.

We found entities affected by the rule to 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.

We reviewed company size and ownership data from 2006–2008 Coast Guard MISLE data and business revenue and size data provided by Reference USA and Dun 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 will be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are 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 final rule since 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 final rule would not have a significant economic impact on a substantial number of small entities under 5 U.S.C. 605(b).

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 final rule so that they could better evaluate its effects on them and participate in the rulemaking. 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 final 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 rule under that Order and have determined that it does not have implications for federalism because there are no similar State regulations, and the States do not have the authority to regulate and adjust rates for pilotage services in the Great Lakes system.

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 or more in any one year. Though this 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 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 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 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 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this 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 concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. 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. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 401

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

■ For the reasons discussed in the preamble, the Coast Guard amends 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), including the footnote to Table (a), 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	$17.73 per kilometer or $31.38 per mile [1]
Each Lock Transited	393 [1]
Harbor Movage	1287 [1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $858, and the maximum basic rate for a through trip is $3,767.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$861
Docking or Undocking	821

* * * * *

■ 3. In § 401.407, revise paragraphs (a) and (b), including the footnote to Table (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	$762	$762
Docking or Undocking	587	587
Any Point on the Niagara River below the Black Rock Lock	N/A	1,498

(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	$2,308	$1,364	$2,997	$2,308	N/A
Port Huron Change Point	[1] 4,020	[1] 4,657	3,020	2,349	1,670
St. Clair River	[1] 4,020	N/A	3,020	3,020	1,364
Detroit or Windsor or the Detroit River	2,308	2,997	1,364	N/A	3,020
Detroit Pilot Boat	1,670	2,308	N/A	N/A	3,020

[1] 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	$656
Docking or Undocking	623

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any harbor
Gros Cap	$2,559	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	2,559	$964	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,145	964	N/A
Sault Ste. Marie, MI	2,145	964	N/A
Harbor Movage	N/A	N/A	$964

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$578
Docking or Undocking	549

* * * * *

§ 401.420 [Amended]

■ 5. In § 401.420—

■ a. In paragraph (a), remove the number "$113" and add, in its place, the number "$119"; and remove the number "$1,777" and add, in its place, the number "$1,867".

■ b. In paragraph (b), remove the number "$113" and add, in its place, the number "$119"; and remove the number "$1,777" and add, in its place, the number "$1,867".

■ c. In paragraph (c)(1), remove the number "$671" and add, in its place, the number "$705"; in paragraph (c)(3), remove the number "$113" and add, in its place, the number "$119"; and, also in paragraph (c)(3), remove the number "$1,777" and add, in its place, the number "$1,867".

§ 401.428 [Amended]

■ 6. In § 401.428, remove the number "$684" and add, in its place, the number "$719".

Dated: February 4, 2010.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. 2010–3396 Filed 2–19–10; 11:15 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 2, and 23

[IB Docket No. 05–216; FCC 10–7]

Elimination of the Commission's Rules Governing International Fixed Public Radiocommunication Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC) adopts the proposal in the Notice of Proposed Rulemaking in this proceeding, to eliminate that portion of the Commission's rules governing International Fixed Public Radiocommunication Services (IFPRS). The elimination of these rules is to facilitate coordination of facilities and services in the C-band (3700–4200 MHz and 5926–6425 MHz).

DATES: Effective March 25, 2010.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth (202) 418–1539, International Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in IB Docket 05–216, adopted January 6, 2010, and released January 14, 2010. The full text of the *Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20054. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or via e-mail *FCC@BCPIWEB.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Paperwork Reduction Act Analysis: The actions taken in the *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501–3520), and found to impose no new or modified requirements.

Regulatory Flexibility Analysis Certification:

The Regulatory Flexibility Act of 1980, as amended, 5 USC 601 *et seq.,* (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

In the *Report and Order,* the Commission decides to eliminate the part 23 rules applicable to International Fixed Public Radio Service (IFPRS) licensees, because there are no IFPRS licensees in operation. Therefore, we certify that the actions in this *Report and Order* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Report and Order,* including a copy of this certification, in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 USC 801(a)(1)(A). In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register.** *See* 5 USC 605(b).

Summary of Report and Order

In the *Report and Order,* the Commission observed that there are no licensees currently offering IFPRS, and there is no basis in the record for assuming that anyone will apply for a license to operate facilities to provide this service in the future. Accordingly, the Commission found that there is no need for part 23, and removed it from the Commission's rules. In addition, the Commission found that issues related to the regulation of IFPRS and the transition from part 23 to part 101 raised in the Notice of Proposed Rulemaking in this proceeding, 70 FR 56620 (Sept. 20, 2005), are moot. Finally, the Commission eliminated the allocations for IFPRS in the Table of Frequency Allocations, 47 CFR 2.106, in order to simplify the planning and coordination of facilities in services that have a co-primary allocation in the C-band.

Ordering Clauses

Accordingly, *it is ordered,* pursuant to sections 4(i), 7(a), 11, 303(c), 303(f), 303(g), and 303(r) of the