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owner or master disputes as a charge prohibited by §401.430, may be appealed to the Director for an advisory opinion as to whether such rate or charge is a prohibited charge.

(b) The appeal shall be in writing and set forth the amounts and description of the rates and charges disputed. The appeal must be supported by evidence that a reasonable attempt has been made to resolve the matter between the parties and that a bona fide controversy exists.

(c) The respondent shall be furnished a copy of the appeal and be notified by the appellant that the matter has been appealed for an advisory opinion.

(d) The respondent shall be allowed a reasonable time, not less than twenty (20) days, in which to file with the Director and the appellant any data or arguments desired to be submitted in further defense of the disputed rates and charges.

(e) The Administration shall consider all relevant matter presented and issue an advisory opinion which shall be accompanied by an express recital that all relevant material received has been considered. The advisory opinion shall set forth the rates and charges in dispute, a discussion of the facts and relevant material considered, and a statement of opinion.

(f) When it is found that the disputed rates and charges, in the opinion of the Director, are charges prohibited by §401.430, the respondent shall have a reasonable time, but not more than thirty (30) days in which to refund moneys, adjust invoices, and otherwise conform to the advisory opinion.

(g) Failure or refusal to comply with the advisory opinion within the time allowed may form a basis for a determination that there is a violation of the Great Lakes Pilotage Regulations subject to the provisions of §401.500.

¶ 401.452 Certification of support services.

Each association holding a Certificate of Authorization shall certify each year whether any support service entity is directly or indirectly related by beneficial ownership to that association or to a United States registered pilot who is also a member of that association.

¶ 401.440 Advance payment of charges.

Subject to the approval of the Director, a United States or Canadian Registered Pilot performing pilotage services in accordance with the rates and charges set forth in this subpart may require advance payment of such rates or charges or a suitable bond securing payment.

¶ 401.450 Pilot change points.

A Registered Pilot’s assignment is completed when the vessel to which he is assigned completes its arrival at or, in the case of a through trip, passes any of the following places:

(a) Snell Lock;
(b) Cape Vincent;
(c) Port Weller;
(d) Port Colborne;
(e) Detroit/Windsor, other than assignments originating or terminating at a point on the Detroit River;
(f) Port Huron/Sarnia;
(g) Detour;
(h) Gros Cap;
(i) Chicago with respect to assignments originating at Detour or Port Huron/Sarnia; and
(j) Duluth/Superior and Fort William/Port Arthur with respect to assignments originating at Gros Cap.

¶ 401.451 Pilot rest periods.

(a) Except as provided in paragraph (b) of this section:
(1) Each Registered Pilot upon completing an assignment at a change point designated in §401.450, and
(2) Each Registered Pilot upon completing a series of assignments totaling more than 10 hours with no more than 2 hours rest between assignments, shall not perform pilotage services for at least 10 hours.

(b) In the event of an emergency or other compelling circumstances a pilotage pool may assign a Registered Pilot for service before his 10-hour rest period required under paragraph (a) of this section is completed. Pilotage pools shall advise the Director of each assignment made under this paragraph.

Subpart E—Penalties; Operations Without Registered Pilots

§ 401.500 Penalties for violations.

Any person, including a pilot, master, owner, or agent, who violates any provision of this part shall be liable to the United States for a civil penalty as set forth in 46 U.S.C. 9308.

§ 401.510 Operation without Registered Pilots.

(a) A vessel may be navigated in the U.S. waters of the Great Lakes without a United States or Canadian Registered Pilot when the vessel or its cargo is in distress or jeopardy.

(b) A vessel may be navigated in the U.S. waters of the Great Lakes without a United States or Canadian Registered Pilot when the Director, with the concurrence of the Commander, 9th Coast Guard District, notifies the master that a United States or Canadian Registered Pilot is not available.

(1) Notification to the master that a pilot is not available will be made by the Director, either directly to the vessel or through the appropriate pilotage pool, orally or in writing as the circumstances admit, and shall not be deemed given until the notice is actually received by the vessel.

(2) The determination that a pilot is not available will be made on an individual basis and only when a vessel has given proper notice of its pilotage service requirements to the pilotage pool having dispatching jurisdiction at the time. The vessel has no obligation or responsibility with respect to such notification other than properly informing the pilotage pool of its pilotage requirements. However, the failure or delay by the pool in processing a pilotage service request, or refusal or delay by the U.S. Coast Guard in notifying the vessel that a pilot is not available, does not constitute constructive notice that a pilot is not available, and the vessel is not relieved by such failure or delay from compliance with the Great Lakes Pilotage Act of 1960.

(3) Upon receipt of proper notice of a vessel’s pilotage requirements, the pilotage pool shall then determine from the tour de role the availability of a pilot to render the service required. If no pilot is reasonably expected to be available for service within 6 hours of the time the pilotage services are required by the vessel, the pilotage pool shall promptly inform the Commandant through the U.S. Coast Guard communications system in the manner as may be prescribed from time to time by the Commandant. The Commandant shall be informed of:

(i) Name and flag of the vessel;

(ii) Route of vessel for which a pilot is not available;

(iii) Time elapsing before a pilot is reasonably expected to become available;

(iv) Whether vessel has an “other officer” on board;

(v) Familiarity of master with route to be transited by the vessel;

(vi) Draft of vessel; and

(vii) Any circumstances of traffic or weather, or condition of the vessel or its cargo which would adversely affect the safety of the vessel in transiting without a pilot.

(4) When a pilot is expected to become available within 6 hours of the time pilot services are required, the vessel shall be informed that a pilot is available and the approximate time the pilot will report on duty. However, should any unusual circumstance or condition exist which may justify notification that a pilot is not available in less than 6 hours, the pilotage pool