SUPPLEMENTARY INFORMATION: This rule is published by the authority of the Secretary, granted under 25 U.S.C. 3001 *et seq.*

Background

On November 16, 1990, President George H.W. Bush signed the Native American Graves Protection and Repatriation Act of 1990 (the Act) into law. The Act addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony with which they are affiliated. The Act assigns implementation responsibilities to the Secretary of the Interior.

Need for Correction

As published, the final rule mistakenly cited the affected subpart as Subpart D of Part 10. The correct reference should have been Subpart B and C of Part 10.

List of Subjects in 43 CFR Part 10

Historic preservation, Indians-lands.

■ For the reasons stated in the preamble, the Department of the Interior amends part 10 of title 43, Code of Federal Regulations, as follows:

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 25 U.S.C. 3001 *et seq.*

§ 10.2 [Corrected]

■ 2. In § 10.2 (c)(3), remove the phrase ''(MS 2253 MIB)'' and replace with the phrase ''(2253).''

■ 3. In Subparts B and C, remove the words ''Departmental Consulting Archeologist'' wherever they appear and add in their place the words ''Manager, National NAGPRA Program.''

Julie MacDonald,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–3147 Filed 3–31–06; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2002–11288]

RIN 1625–AA38 (Formerly RIN 2115–AG30)

Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing the March 2005 interim rule changing the rates for pilotage on the Great Lakes. That rate adjustment became effective on April 11, 2005. The Coast Guard is also finalizing the December 2003 interim rule. This final rule incorporates modifications to the interim rule in response to comments posted in the public docket. This rule is necessary to generate sufficient revenues for allowable expenses and to ensure that the pilots receive target compensation.

DATES: This final rule is effective May 3, 2006.

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–2002–11288 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Paul Wasserman, Director, Great Lakes Pilotage, Office of Waterways Management Plans and Policy (G–MWP), U.S. Coast Guard, telephone 202–267–2856 or e-mail him at *pwasserman@comdt.uscg.mil.* Suggestions and proposed changes to the ratemaking methodology should be addressed to the Great Lakes Pilotage Advisory Committee at Commandant (G–MW), Executive Director, Great Lakes Pilotage Advisory Committee, Room 1406, 2100 Second St., SW., Washington, DC 20593–0001. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

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I. Program History

The Great Lakes Pilotage Act of 1960 requires foreign-flag vessels and U.S.-flag vessels in foreign trade to use Federal Great Lakes registered pilots while transiting the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. Chapter 93. The Coast Guard is responsible for administering this pilotage program, which includes setting rates for pilotage service.

The Coast Guard pilotage regulations require that the Coast Guard annually review pilotage rates and establish new rates at least once every five years, or sooner, if the annual reviews show a need to do so. 46 CFR part 404.

On January 23, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM). 68 FR 3202. That NPRM recommended a 25 percent average increase in pilotage rates. That recommended increase was based on a

number of factors relating to projections of ship traffic, pilot expenses, returns on investment, and compensation received by first mates on the Great Lakes under the 2002 American Maritime Officers (AMO) union contract, adjusted for inflation. Two public meetings were held and the comment period of that NPRM was extended.

The Coast Guard received comments from the pilots, the Great Lakes maritime community, and the St. Lawrence Seaway Development Corporation that raised issues that had not been addressed by the Coast Guard in earlier rulemakings. These comments included the impact of pilotage rates on foreign-flag shipping in the Great Lakes, the method for calculating components of the rate multiplier, target pilot compensation, and projection of revenues and expenses.

In response, the Coast Guard issued an interim rule establishing a rate adjustment of five percent to implement the uncontested parts of the rate increase early in the 2004 season, and allow the Coast Guard time to evaluate the remaining issues. 68 FR 69564. Corrections to the first interim rule were published the following January. 69 FR 128 and 69 FR 533, respectively.

On March 10, 2005, the Coast Guard issued a second interim rule that established a rate adjustment resulting in an additional average increase of 20 percent across all Districts over the 2004 rate adjustment. 70 FR 12082. Corrections to the March 2005 interim rule were published on March 21, 2005 and March 29, 2005. 70 FR 13574 and 70 FR 15779, respectively. In issuing the March 10, 2005 interim rule, the Coast Guard followed the ratemaking methodology in 46 CFR part 404 and Appendix A of that part.

II. Discussion of Comments and Changes

The Coast Guard received eight comments in response to the March 2005 interim rule by the close of the comment period on June 8, 2005. Three of these comments requested a 30-day extension of the comment period to permit the pilots' associations and industry to continue discussions on the submission of ''mutually beneficial comments to further improve the Great Lakes pilotage system.'' After considering these requests, the Coast Guard agreed to extend the comment period to July 8, 2005. Twenty-two additional comments were received before the close of the extended comment period.

We received comments from individual pilots, district pilots' associations, a law firm representing the interests of pilots, the Shipping Federation of Canada and its members—the U.S. Great Lakes Shipping Association, the Canadian Chamber of Maritime Commerce, and the American Great Lakes Ports Association, Inc. We also received comments from the American Pilots' Association and the Canadian Great Lakes Pilotage Authority (GLPA). To the extent that these comments raised issues previously addressed in the two preceding interim rules and the NPRM, no further responses will be made to these comments. However, certain comments have raised new issues, which are addressed in the preamble of this document.

A. Beyond the Scope of This Rulemaking

A number of comments raised issues that are beyond the scope of this rulemaking, including issues related to the bridge hour study. The bridge hour study is currently under review and any changes to the current regulations that may arise from that study will be the subject of a separate rulemaking.

Other comments that are beyond the scope of this rulemaking include a comment stating that the use of the AMO union collective-bargaining agreement to set compensation levels for the pilots is ''highly questionable and is the root of substantial disagreement on the appropriate level of target compensation.'' One comment stated that the current methodology for determining pilotage rates is too vulnerable to interpretation. Another comment stated that the use of the AMO union contracts should be either eliminated or that all union contracts applicable to masters and mates on the Great Lakes be reviewed.

Response: The Coast Guard is bound by 46 CFR part 404 to calculate rates based upon the provisions of Appendices ''A'' and ''C.'' We have not proposed to change the formulas in Appendices ''A'' and ''C'' in this rulemaking. However, since the regulations require that pilot target compensation estimate that of masters and mates on the Great Lakes and since the two services work quite differently as explained later in this preamble, the use of the union contracts have been a source of ''substantial disagreement on the appropriate level of target compensation.'' The Coast Guard encourages continued discussion among the parties to consider alternative ratemaking methodologies. Suggestions and proposed changes to the ratemaking methodology should be addressed to the Great Lakes Pilotage Advisory Committee found in the **FOR FURTHER INFORMATION CONTACT** section.

B. Number of Pilots Needed

We received 14 comments concerning the number of pilots necessary to properly service the St. Lawrence Seaway and the Great Lakes system for the balance of the 2005 navigation season. Five comments were received from individual pilots, four comments were received from industry associations, two comments each were received from the pilots' associations and the pilots' representative, and one comment was received from the GLPA.

Each of these comments expressed concern that the March 2005 interim rule provided too few pilots in certain pilotage Areas. Several comments, including a comment from an industry representative, stated that the Director must consult with pilots and industry and use his discretion to correct this shortcoming.

Nine comments stated that the number of pilots should not be fractionalized in the ratemaking process and that all partial pilot numbers should be rounded up to the nearest whole number. One of these comments stated that by using partial pilot calculations, the Director has systematically prevented each pilot from earning target pilot compensation. This same comment stated that the number of pilots in each Area must be expressed in whole numbers and accompanied by correspondingly equal compensation. We received these comments from pilot and industry representatives. No comments suggested that the number of pilots should be fractionalized.

Response: Since the methodology provides an estimate of the number of pilots needed, the Coast Guard believes that in practical terms, a fractionalized number should be rounded up to ensure efficient and adequate pilotage services. Accordingly, this final rule modifies total target pilot compensation, revenue, and expense components of the ratemaking equations of the March 2005 interim rule to compensate for rounding fractionalized pilot numbers to the next whole number.

Comments: Two comments stated that it is up to the Director to determine the number of pilots needed to meet shipping demands, not the individual associations, as stated in the March 2005 interim rule. Another comment stated that the Coast Guard should ensure that the number of pilots authorized in the rate actually be hired and not just used to increase the rates.

One comment from an industry representative stated that ''the [interim] rule does not have an adequate number

of pilots for the St. Lawrence River and Lake Ontario, nor is there an adequate number of pilots for International District 2.'' The comment also recommended that there be five pilots assigned on Lake Ontario instead of the currently authorized 3.7 pilots.

Another comment stated that there are an inadequate number of pilots provided in the rate for the St. Lawrence River and Lake Ontario to meet the needs of traffic and to avoid costly delays to vessels. The comment recommended that 11 pilots should be the rate benchmark. This would represent an increase of two pilots over that presently provided.

The District Two Pilots' Association commented that the number of pilots in District Two should be increased from 10.9 to 14—nine pilots in designated waters and five pilots in the undesignated waters.

Comments from District Three pilots stated additional pilots should be allotted in their Areas as follows: 12 for Lakes Michigan and Huron (Area 6) instead of the current 10; eight in Lake Superior (Area 8) instead of the current 6.3; and five in Area 7 instead of the current 3.9.

One comment stated that if the Coast Guard is going to set pilot numbers based on seasonal averages, then the Coast Guard and industry must accept the fact that there will be delays when vessel transits exceed average volumes.

Response: For purposes of establishing rates, the Coast Guard agrees that it is the Director's responsibility to determine the number of pilots needed to provide adequate and efficient pilotage taking into account the vessel traffic projections and other factors listed in 46 CFR Appendix A to part 404, Step 2.B(3). It is also the Director's responsibility to establish pilotage rates that will allow pilots to earn target compensation assuming the actual traffic meets or exceeds projections. However, the actual pilots employed at any time must be determined by the pilot associations as long as they are able to provide safe, efficient, and adequate pilotage. Consistent with the comments we have received, we have reassessed the number of pilots required in the rate to efficiently and effectively handle projected traffic volumes through the end of the 2005 season. Analysis reveals that our original traffic estimates for the 2005 season are accurate. However, recent changes in Areas 1 and 2 require that we reassess the number of pilots in those Areas. In Area 1, the night relief program for the St. Lawrence River was expanded for the 2005 season. In Area 2, the Rochester-to-Toronto fast ferry was resumed in June 2005. Therefore, we are increasing by one the number of pilots in each of these Areas pursuant to the Director's discretion, 46 CFR Appendix A to part 404, Step 2.B(3), as discussed in the following paragraphs.

The night relief program, which was recently expanded for the 2005 season, allows a pilot to request night relief between the hours of 4 p.m. and 6 a.m. if the pilot becomes concerned about fatigue. The night relief program was initially introduced in 2001 by the Canadian Great Lakes Pilotage Authority on behalf of Canadian pilots to ensure the safety of shipping on the river during evening hours. The U.S. Office of Great Lakes Pilotage adopted the program later that year. The program has proven beneficial to both pilots and industry.

While the program has the beneficial effect of enhancing safety of vessels transiting the river at night, it also increases pilot turnover on the tour de roll (the order of rotation of pilots for ship assignments), increases the number of rest periods each pilot is required to take, and decreases pilot availability. Thus, the program's continuation, and the 2005 expansion of hours that night relief is available, has made it necessary to increase the number of pilots on the St. Lawrence Seaway from five to six.

As we stated in the March 10, 2005 interim rule, we did not make rate adjustments at that time for fast ferry needs in Area 2 because the fast ferry was not in operation. However, the Rochester-to-Toronto fast ferry on Lake Ontario was resumed in June 2005. This added service creates a need for an additional pilot in that Area even though the pilots' association has assigned four pilots to that Area.

We conservatively estimate, based on past Area 2 traffic volume, that for the balance of the 2005 season and for the 2006 season, the ferry service on Lake Ontario (Area 2) will require a minimum increase of 127 bridge hours per month, or 1,144 additional U.S. bridge hours per nine-month season, which equates to .64 of a pilot. Adding .64 pilots to the 3.7 pilots currently in the second interim rule (equaling 4.34 pilots) and rounding to the nearest whole pilot, raises the total number of pilots in Area 2 to five.

In addition, if the pilot service on board the ferry again ceases operation, the level of delays experienced on Lake Ontario during the 2005 season indicate that an increase of one pilot is the most prudent and appropriate action to take at this time. This increase is consistent with industry and pilot comments requesting five pilots on Lake Ontario.

We disagree with the comment that it is up to the Director to determine the number of pilots to be actually employed to meet shipping demands, not the individual associations, as stated in the March 2005 interim rule. The numbers of pilots that appear in these calculations are simply part of a mathematical model used to arrive at a proper rate structure. It is not an authorization by the Coast Guard of the number of pilots that must actually be hired to provide basic pilotage service. We also disagree with the comment stating that the Coast Guard should ensure that the number of pilots authorized in the rate actually be hired. The associations are responsible for hiring the number of pilots necessary to provide safe, effective, and efficient pilotage services in their Districts.

C. Target Pilot Compensation

We received 13 comments on the calculation of target pilot compensation, not including comments concerning the AMO union contract monthly multiplier (the 54-day multiplier), which is discussed separately below. Of those comments, six were from individual pilots, while there were two each from pilots' associations and industry representatives.

Comments: Five comments stated that the Coast Guard has failed to use the most recent AMO union contracts in calculating target pilot compensation and urged that we update our calculations to include these increases.

Response: We disagree. We used the AMO union contracts, effective August 1, 2002, in the January 2003 NPRM and the December 2003 interim rule. 68 FR 3202 and 68 FR 69571. In the March 2005 interim rule, in response to numerous comments, we updated the data and used the AMO union contracts effective for 2003. 70 FR 12082. We did this because it allowed for a more accurate rate calculation and because the new data would be available to the public for comment prior to publishing a final rule. Updating the base data now would require that we issue another interim rule and allow still more time for additional public comment. We are at an appropriate stage in the ratemaking process to publish a final rule. In publishing this final rule, we are constrained to rely on this base data for our final calculations. The more recent AMO union contracts will be used as part of the 2006 rate review.

Comments: Four comments stated the Coast Guard improperly calculated target pilot compensation for pilots on designated waters. According to these comments, the Coast Guard's regulations (Step 2.A. of Appendix A to

part 404) require that first mate's wages and benefits (derived from the AMO union contracts) be added together and then multiplied by 150 percent to determine target pilot compensation, instead of multiplying wages by 150 percent and adding benefits to that total, as the Coast Guard has done.

Comments from the pilots' representatives and industry stated that the Coast Guard must multiply daily wage and benefit rates (derived from the AMO union contracts) by the full 270-day navigation season, instead of multiplying the wage rate by 270 days and the benefit rate by 180 days, as the Coast Guard has done. The comment also said that by multiplying the wage rate by 270 days and the benefit rate by 180 days the Coast Guard is departing from precedence established since the first rate was calculated under the present methodology in 1997. Finally, the comment said that the Coast Guard had misstated its earlier position on this issue by stating that in each of its previous rulemakings it had calculated benefits based on 180 days vice 270 days. The representative of the pilots' associations agreed with the views expressed by industry on this issue.

Response: Based upon these comments, we have reexamined our position in the March 2005 interim rule and determined that the most accurate way to calculate target pilot compensation is to multiply both the daily wage and benefit rates by 270 days. We have modified our calculations accordingly. We agree with the comments from the pilots' representatives and industry that this modification is a return to the traditional way the Coast Guard has calculated target pilot compensation.

We disagree that the first mate's wages and benefits must be added together and then multiplied by 150 percent to determine target pilot compensation on designated waters, instead of multiplying wages by 150 percent and adding benefits to that total, as the Coast Guard has done. Our computation method was recently upheld in *Lake Pilots Assoc., Inc* v. *United States Coast Guard,* 257 F.Supp.2d 148 (D.D.C. April 4, 2003).

D. AMO Monthly Multiplier

Comments: Three comments addressed the monthly multiplier used in calculating target pilot compensation. An industry comment stated that the Director must resolve the dispute regarding the 44-day and 54-day multiplier and stated that the multiplier used by the Director in the IR ''is admittedly suspect.''

An industry representative commented that the monthly multiplier should be 43.5 days, not the 54 days used by the Coast Guard. The comment states that the use of the 54-day multiplier is not consistent with the AMO union contract because officers under the contract must take at least 60 days off per season while the Coast Guard's formula presumes that the approximate annual compensation is based on officers working 270 days. The comment additionally states that the Coast Guard has been inconsistent in its analysis of the multiplier in noting that it is inappropriate to assume that masters and mates work every day of the shipping season. The comment continues that rather than recognizing a seasonal average of 210 days worked, as opposed to 270 days, and reducing the multiplier accordingly, the Coast Guard's solution was to limit monthly benefits to six months. The comment concludes by stating, ''The Coast Guard must take into account, and not ignore, all required elements of the contract in order to determine the appropriate monthly multiplier and reduce the multiplier accordingly. Thus, the Coast Guard must correct this error and reduce the multiplier accordingly taking into account benefits for a nine-month period.''

Response: The Coast Guard's decision to use a 54-day multiplier, as required under the existing AMO union collective bargaining agreements, in computing target pilot compensation has been fully discussed in the December 2003 and March 2005 interim rules. However, the comments received in response to the March 2005 interim rule raised additional issues that require supplemental responses.

We disagree with the comment that use of the 54-day multiplier used by the Director in the IR ''is admittedly suspect.'' The 54-day multiplier is derived from the AMO union contracts and it has been confirmed as accurate for use in the rate making process by AMO union officials. See document number 196 in the public docket number USCG–2002–11288. This docket can be found at the Department of Transportation Docket Management System Web site at *http://dms.dot.gov/*.'' In that comment dated October 22, 1997, the Vice President of the Great Lakes American Maritime Officers' Union, stated that under the collective bargaining agreement in effect for the period 1997 to 1999, the daily wage rate for first mates must be multiplied by 54 days to arrive at a monthly wage rate figure. This advice was again confirmed by the Vice President of the AMO in a letter to the Director dated January 23, 2004, as accurate through the 2004 season.

We also disagree with the comments stating that the monthly multiplier should be 43.5 days, not the 54 days used by the Coast Guard; that use of 54-day multiplier is not consistent with the AMO union contract because officers under the contract must take at least 60 days off per season while the Coast Guard's formula presumes that the approximate annual compensation is based on officers working 270 days; that the Coast Guard should recognize a seasonal average of 210 days worked, as opposed to 270 days, and reduce the multiplier accordingly; and that the Coast Guard has been inconsistent in its analysis of the multiplier in noting that it is inappropriate to assume that masters and mates work every day of the shipping season.

As discussed in the preambles to the two preceding interim rules, the Coast Guard recognizes that masters and mates who are members of the AMO union work differently than U.S. Registered pilots. Adjustments in calculating compensation must take these differences into consideration.

According to industry, masters and mates generally work 60 straight days aboard ship followed by 30 consecutive days off. They are paid for days actually worked. During their 30-day leave periods, masters and mates have no responsibility to their employers, and they are not subject to mandatory recall. Pilots, however, do not work like masters and mates.

The working rules for each of the three pilots' associations, as approved by the Coast Guard, establish that once the tour de roll is set at the beginning of a navigation season, until the conclusion of the season in late December, each pilot must remain continuously available for assignment. The only permissible exceptions to this requirement include statutory and regulatory periods of mandatory rest, limited sick and life-event days, and very limited periods of leave only if traffic conditions permit. When leave is granted, pilots must still remain close to home, and cannot plan time out of the general geographic area, because they are subject to immediate mandatory recall should traffic require. Throughout the season, as traffic warrants, pilots are frequently recalled to pilot vessels, and frequently take ''short rests'' to meet traffic needs. Masters and mates are not subject to these working conditions. For these reasons, pilots are paid not for days actually worked, as masters and mates are paid, but they are paid instead for days available to service vessels. Pilots, being required to be available for

all 270 days of each navigation season, are compensated accordingly. Pilots' wages and benefits are each multiplied by 270 days (9 months) as opposed to 270 days (9 months) for wages and 180 days (6 months) for benefits.

The Coast Guard's regulations require that pilots' compensation ''approximate the average annual compensation'' of mates and masters on the Great Lakes. 46 CFR part 404, Appendix A, Step 2. The regulations do not require the Coast Guard to duplicate this compensation or duplicate the way masters and mates are compensated—we are only required to approximate it.

The use of this formula is consistent with the way compensation has been computed for pilots since the current methodology became effective in 1997.

Most importantly, however, these comments raise a distinction without a difference. If pilots were compensated based upon the 43.5-day multiplier instead of the 54-day multiplier they would also be entitled to 10.5 days off per month, or 95.4 full days of leave per season, during which they would not be subject to recall. To maintain the same levels of service, additional pilots would have to be added to the tour de rolls to make up for these mandatory days off. So, while each pilot would be available for service fewer days per month and earn less money per season there would be more pilots for the ship owners and operators to pay. In the end, industry would pay approximately the same in pilotage fees.

E. Family Leave and Restorative Rest

Comments: Three comments stated that because the current union contract for Great Lakes deck officers allows for ''Family Leave'' (or ''Restorative Rest,'' the term used by District One pilots) at a rate of 30 days for every 60 days worked, consideration should be given to allowing pilots a similar entitlement instead of requiring pilots to be available continuously for all 270 days of the navigation season. These comments recommend that each pilot should receive 10 days off each month with the schedule being determined by the individual district associations. One of these three comments additionally stated that pilot numbers should be increased to allow for regular periods of ''restorative rest.''

Response: As stated in our response to the comments above, the current pilots' association work rules for each district, approved by the U.S. Coast Guard, establish a system where pilots are required, with limited exceptions, to be available for service aboard ships for the full 270 days of each navigation season. These work rules were proposed to the Coast Guard by each pilots' association as a condition of receiving a certificate of authorization to form a pilotage pool. The rate calculations are based, in part, upon these approved work requirements. Absent change to these work rules, the Coast Guard will continue to calculate days available and the applicable multipliers based upon those standards. Should the pilots' associations desire a change to this work standard, and opt for mandatory days off, the Coast Guard will give such requests its full consideration. As indicated above, however, should the pilots' associations desire to change the existing work rules, adjustments would have to be made that would reduce individual pilot compensation from current levels.

F. Training Funds

Comments: We received two comments expressing concern that training funds for District Three were not included in the interim rule. The comment asked that the Coast Guard restore the district's training funds to the final rule, as the Coast Guard did in the July 2001 final rule, so pilots could attend training sessions. 66 FR 36848. A pilots' association representative stated that in the July 2001 final rule the Coast Guard allotted training funds for District One in the amount of $30,000, District Two $40,000 and District Three $50,000.

Response: The March 2005 interim rule and this final rule reimburses the pilots' associations for reasonable and necessary training expenses actually incurred during the 2002 navigation season. This is the expense base used in all rate-related calculations. Accordingly, District One was reimbursed training expenses of $15,945. Districts Two and Three did not report training expenses during this review; therefore, none were included in our review and subsequent rate adjustments.

The regulations are clear that expenses are recognized on a reimbursable basis only. Includable expenses are those that have been incurred and are both reasonable and necessary for the provision of pilotage service. This determination is made by reviewing each association's financial statements. Based upon that review, the Director is required to project the amount of vessel traffic annually and forecast the amount of fair and reasonable expenses that pilotage rates should recover. See, ''Projection of Operating Expenses'' in Appendix A to 46 CFR part 404. There is no provision in the ratemaking regulations or either Appendices ''A'' or ''C'' authorizing training expenses that have not previously been incurred.

We will no longer fund anticipated future expenses as we did in the 2001 rate. Only reasonable and necessary expenses actually incurred in the course of a pilotage season are subject to reimbursement. Expense projections are to be based on those expense bases. Pilot training is essential, but training expenses must be handled in accordance with the existing regulations. All reasonable and necessary training expenses incurred in future years should be accounted for in each association's annual financial statements for the year they are incurred. Future ratemakings will account for these expenses.

G. Health Insurance

Comments: One comment stated that the current computation of the benefit component of target compensation significantly underfunds the cost of health insurance because pilots must expend higher sums to obtain health insurance comparable to what is provided under the union contract. Another comment stated that the monthly health insurance component of target pilot compensation must be multiplied by 12 months to accurately reflect, and not under fund, target pilot compensation. Industry commented that the inclusion of health insurance benefits for retired pilots in the March 2005 interim rule ''is without precedent and entirely unsupported.'' The comment continued that because the union does not collect additional funds from the employer to enable them to pay health insurance benefits to their retired members, the Coast Guard should not include the cost of health insurance for retired pilots within the expense base. Finally, the comment stated that ''the IR would allow all retired pilots to receive medical benefits for life with no years of service requirement. In other words, a pilot could work for one year and retire with lifetime insurance benefits.'' According to this comment, AMO union members should meet a service requirement before being eligible for lifetime health insurance benefits. An industry comment stated, in addition to the above, that an allowance of lifetime benefits for health insurance contradicts the reality of pilots being self employed.

Response: We disagree with the comment stating that the health insurance benefit component of the AMO union contract must be multiplied by 12 months, instead of nine, to avoid under funding target pilot compensation. We also disagree with the comments that the current health insurance computation of target

compensation significantly underfunds the cost of health insurance because pilots must expend higher sums to obtain health insurance comparable to what is provided under the union contract.

Under the regulations, pilot compensation is computed based upon the AMO union contract to approximate compensation earned by masters and mates serving aboard lake vessels. Appendix A to 46 CFR part 404. To achieve this, we calculate target pilot compensation by multiplying both wages and benefits, which includes health benefits, by 270 days or 9 months. This is consistent with the way compensation has been computed for pilots since 1997 when the ratemaking methodology came into effect. The actual cost of health insurance to pilots is not relevant to these computations.

We disagree with the comment by industry that the inclusion of health insurance benefits for retired pilots in the March 2005 interim rule ''is without precedent and entirely unsupported.'' This comment continued that because the union does not collect additional funds from the employer to enable them to pay health insurance benefits to their retired members, the Coast Guard should not include the cost of health insurance for retired pilots within the expense base. These comments have been fully addressed in the preamble to the March 2005 interim rule. 70 FR 12086, March 10, 2005. No further response is necessary.

However, the comment raised an independent issue concerning service requirements under the union contract for a master or mate to become eligible for the lifetime health insurance benefit. This comment states that the interim rule would allow all retired pilots to receive medical benefits for life with no service requirement. In other words, a pilot could work for one year and retire with lifetime insurance benefits. We disagree. The same requirements that a master or mate must meet to become eligible for the benefit apply equally to pilots. The AMO Medical Plan provides that members with 20 years of creditable service are entitled to lifetime medical benefits, subject to an annual earnings limitation.

We disagree that an allowance of lifetime benefits for health insurance contradicts the reality of pilots being self employed. As stated above, pilot compensation is required to approximate that received by masters and mates serving on lake vessels. Part of that compensation is lifetime health insurance for eligible union members. Therefore, the inclusion of the costs of insurance for retired pilots is consistent with the union contract.

H. Expenses

Comments: Six comments were received concerning components of the expense base used in the March 2005 interim rule. An industry comment stated that the legal and lobbying expenses should not have been included, nor should they have been considered recurring expenses, because this was a base year rate review. Another industry comment said that the Coast Guard must disallow any legal fees that are non-recurring and provide a detailed explanation on how legal fees were allowed when corresponding bills omitted significant details necessary to properly determine the scope of legal services rendered. The comment also stated that the ''Coast Guard continues not to provide any explanation addressing why the legal fees that were allowed are reasonable and directly related to pilotage in accordance with the section 404.5(8) standard.''

Other comments said that the Coast Guard must scrutinize all non-recurring expenses and remove expenses that are not reasonable to include in the expense base for the final rule. Other comments stated that single, non-recurring expenses, such as those related to leasing, operating or maintaining pilot boats should not be included.

Three comments were received stating that because a pilots' association is a trade association and not a union, dues paid for membership by each pilot association should be allowable as a reasonable and necessary expense of operating the pilotage associations.

Two comments were received addressing travel expenses. One comment protested the reclassification of $8,600 of travel expenses as compensation in District Two. The comment stated that these travel expenses, if not allowed, should be considered non-reimbursed expenses and added back into the rate. Another comment by the same pilot, stated that District Two pilots should be reimbursed for mileage incurred from a pilot's home to his assignment. This comment stated that the Districts One and Three pilots receive such a reimbursement.

Two comments were received concerning the asset or investment base component of the rate. Both comments stated that unlike previous ratemakings, the Coast Guard changed the method of calculating the investment base in the March 2005 interim rule by allowing cash to be included. According to these comments, this inflated the return on investment portion of the March 2005 interim rule and, consequently, pilotage rates. One of these comments stated that the Coast Guard must remove all cash assets from its calculations to properly determine the asset base and adjust the return on investment calculation to properly adjust pilot rates.

One comment received from a pilots' association urged the Coast Guard to consider establishing segregated funding for capital improvements, such as pilot boats.

Response: The issues raised in comments concerning Coast Guard's inclusion of legal fees and non-recurring expenses, investment base calculations, and the disallowance of travel expenses in District Two, were fully addressed in the March 2005 interim rule. No additional responses are necessary.

Regarding the issue of whether pilot association dues are reimbursable as an expense in the rate, some clarification is necessary to our response to comments received to the March 2005 interim rule addressing the issue of whether pilot association dues are reimbursable as an expense in the rate. In our response, we stated that ''American Pilot Association dues are not an expense. Union pilots who work for domestic shipping companies must pay their own dues, and the amounts paid by the pilotage organizations for the benefit of pilots have been correctly reclassified as pilot compensation, the use of which to pay dues is discretionary and personal to the pilots.'' Our response appears limited to payment of union dues by employers. While our response remains correct, it was under-inclusive. Our response applies to both union and pilot association dues.

We disagree with the comment received from the pilots' association stating the Coast Guard should establish segregated funding for capital improvements, such as pilot boats. As with pilot training, it is the responsibility of the pilot associations to establish their own accounts and make provision for set asides from revenues generated. Funding for capital improvements, which are reasonable and necessary costs of operating a pilotage pool, derive from two sources: reimbursable expenses and depreciation of capital assets. How the associations choose to account for these expenses are exclusively within the discretion of each association.

Comments: A pilots' association and its representative commented that the Coast Guard must immediately increase pilotage rates to match Canadian rates in accordance with the provisions of the Memorandum of Arrangements, Great Lakes Pilotage, Between The Secretary of Transportation (now, Department of

Homeland Security) and the Minister of Transport Canada, dated January 17 and 18, 1977(MOA). This MOA, according to the comments, requires that the United States and Canada set identical rates.

Response: We disagree. When the 2005 rate adjustment was first proposed, Canadian and U.S. pilotage rates were within a reasonable range of each other. To recast the rate now would require the Coast Guard to issue an additional interim rule or, more likely, a supplemental notice of proposed rulemaking (SNPRM). The current ratemaking process has been ongoing since January 23, 2003. This rulemaking process is now postured to proceed to a final rule. Issues relating to identical rates between the U.S. and Canada will be reviewed during the next ratemaking process.

I. General Comments

Comments: Several comments of a general nature were received. One comment stated that by ''rushing'' to an interim rule, instead of providing adequate notice and public comment through a SNPRM, the Coast Guard has breached its obligation to maintain ''a fair and efficient pilotage system'' and to follow the statutory requirements to ensure rates accurately reflect the costs of providing pilotage services under the Great Lakes Pilotage Act.

An industry comment stated that the Coast Guard should give serious consideration to the rate making methodology, which it believes to be flawed.

Response: We disagree that we were ''rushing'' to an interim rule. We have fully met the requirements of the Administrative Procedure Act to provide public notice and comment in connection with modifications of existing regulations.

With regard to the comment that the Coast Guard should give serious consideration to the ratemaking methodology, we invite all interested parties to submit their suggestions to the Great Lakes Pilotage Advisory Committee.

III. Discussion of the Rule

A. Ratemaking Process and Methodology

In the December 2003 (68 FR 69568) and March 2005 (70 FR 12082) interim rules, we described the analysis performed, and the seven-step methodology followed, in the development of the rate adjustment. We will not repeat this description here. The following shows the rate calculations for this final rule and provides explanations of the adjustments made to the March 2005 interim rule based on the comments received.

B. Modifications to the Rate

The pilotage rates for Federal pilots on the Great Lakes contained in the March 2005 interim rule have been adjusted in accordance with the methodology appearing at Appendix A to 46 CFR part 404, based upon comments received in the public docket relating to that interim rule.

Based on the comments received, the March 2005 interim rule is being modified by rounding pilot numbers in each Area up to the next whole pilot. We are also increasing by one each the number of pilots serving the St. Lawrence Seaway and Lake Ontario, bringing the total number of pilots servicing District One to 11, instead of the current nine. We are also amending our computation of target pilot compensation by multiplying both the daily wage rate and the daily benefit rate by 270 days, to more accurately reflect compensation received by masters and mates on the Great Lakes. To effect these adjustments, we must adjust the expense bases of each association to reflect additional costs associated with increased pilots, and we are increasing the number of bridge hours necessary to round up and add the additional pilots. We are also adjusting projected revenues based upon the increase in bridge hours referred to above.

We have made adjustments to the District Two expense base to reflect costs associated with the operation of the Huron Maid, the pilot boat obtained to replace the Westcott II that sank in 2001. These adjustments are being made to include these costs in the rate and to end the current surcharge.

For the 2002 fiscal year, the Coast Guard's independent accountant reduced the District Two association's total reported pilot boat expense by subtracting revenues received in the form of surcharges from vessel owners and operators. These surcharges were used to defray the cost of operating the Huron Maid. This adjustment was necessary to avoid double charging for the pilot boat expense. If the surcharge remained in place, and the adjustment not made to the expense base, the costs would have been recovered twice: once in the form of the surcharge, and second by including that charge in the rate structure. Since we are ending the surcharge effective with this final rule, we are reversing this adjustment in an amount equal to the actual 2002 costs of operating this vessel.

In 2002, $129,162 was paid to the District Two association in surcharges for the Huron Maid. The actual expense of operating the replacement pilot boat was $121,865. As stated, the Coast Guard's independent accountant reduced the District Two association's total pilot boat expense by the full amount of the surcharge collected for the operation of the Huron Maid. For the purposes of this ratemaking, we are adding back to the total pilot boat expense the actual cost incurred by the District Two association to operate this vessel. The difference between the total fees collected as surcharges and the actual costs, totaling $7,297, remains a reduction to expenses.

We have analyzed the District Two association's total pilot boat expense, both as reported by the association and as adjusted by the independent accountant, from 1999 through 2004. Average adjusted total pilot boat expense over that six-year period is $130,205, annually. The 2002 adjusted total pilot boat expense calculated for inclusion in this final rule is $121,865, which is below the six-year average. We have determined that these costs are both reasonable and necessary to the operation of pilotage service within the District. These costs were not included in the 2002 expense base because a surcharge was implemented to cover these costs. Effective with this final rule, the surcharge applied by the District Two association for the cost of operating the Huron Maid will cease.

As the tables in this final rule show, the percentage rate increase over the March 2005 interim rule, for Area 5 of District Two is 12 percent. Eight percent of that number reflects the adjustment made to include the surcharge that vessel owners and operators have been paying since 2002 to cover the cost of the Huron Maid. As a consequence, the effective rate increase for Area 5 is actually just 4 percent.

In addition, the costs of transportation incurred by District One in connection with the night relief program on the St. Lawrence River has similarly not been included within their expense base because these charges have been collected by a surcharge applied to the rates by the District One pilots' association. These costs are being added to the expense base and surcharges collected to recover these expenses will also end with the effective date of this final rule. We have determined that this additional travel cost is both reasonable and necessary for the safe, efficient, and reliable provision of pilotage service within District One.

As the tables in this final rule show, the percentage rate increase over the

March 2005 interim rule, for Area 1 of District One is 7 percent. Four percent of that number reflects the adjustment made to include the surcharge that vessel owners and operators have been paying since 2001 to cover the cost of transportation in connection with the night relief at Iroquois Lock. As a consequence, the effective rate increase for Area 1 is actually just 3 percent.

C. Summary of Modifications to Expense Adjustments

FICA and travel expense projections were increased by $42,919 for District One, $18,413 for District Two, and $11,332 for District Three to account for additional bridge hours required to round up the fractionalized pilot numbers and for adding one additional pilot each to the St. Lawrence Seaway and Lake Ontario. The projected dollar amounts were computed by taking the average expense figures for FICA and travel by Area, as reported in the ''Independent Accountant's Reports on Applying Agreed Upon Procedures, Financial Statement Analysis, Supplementary Financial Information and Report of Findings and Recommendations, 31 December 2002'' and computing a cost per bridge hour. We then multiplied this number by the increase in bridge hours to arrive at a revised projection of expenses for ratemaking purposes.

In addition, $121,865 was added to the expense base of District Two to cover the costs of pilot boat operations occasioned by the loss of the Westcott II that were not included within the association's expense base for 2002. We also included $48,694 to the expense base of District One to cover the additional costs of transportation associated with the night relief program that has not previously been reported in that association's expense base. These amounts were generated by reference to the reports of the Coast Guard's independent auditor and the associations' financial statements, which are contained in the public docket. As mentioned, on the date this final rule goes into effect, surcharges for these expenses will end.

The following summarizes the expense adjustments made to the rate calculations to accommodate these modifications.

SUMMARY OF MODIFICATIONS TO 2002 OPERATING EXPENSES

	District one	District two	District three
1. Reported Expenses for 2002	$658,913	$1,295,595	$1,242,847
Adjustments	(41,210)	(410,381)	93,526
Total Adjusted Expenses for 2002	617,703	885,214	1,336,373
2. Inflation Adjustments:			
(2003)—1.9%	11,736	16,819	25,391
(2004)—1.9%	11,959	17,139	25,874
3. 2005 Adjustments for Foreseeable Circumstances:			
a. Increased Travel and FICA expenses associated with additional bridge hours resulting from the rounding of pilot numbers and the addition of two additional pilots for Area 1 and Area 2	51,005	18,413	11,332
b. Increased Travel Expenses in connection night relief program	48,694	.....	.....
c. Increased Pilot Boat operating costs in connection with sinking of Westcott II	.....	121,865	.....
4. Total Adjustments to 2002 Expenses	741,097	1,059,450	1,398,970

D. Summary of Modifications to the Projection of Operating Expenses

The projection of operating expenses for this final rule is adjusted based upon the modifications made to pilotage expenses in the entry titled ''2005 Adjustments of Foreseeable Circumstances,'' above, and appears, as follows:

District one	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projection of operating expenses	$368,186	$372,911	$741,097

District two	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total district two
Projection of operating expenses	$427,333	$632,117	$1,059,450

District Three	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projection of operating expenses	$693,924	$271,563	$433,484	$1,398,971

E. Summary of Modifications to the Benefit Calculation

Based on comments received to the March 2005 interim rule, the Coast Guard has modified its calculation of benefits by multiplying that portion of pilot compensation by 270 days, instead of the 180 days used in the March 2005 interim rule, which is the same multiplier used for the wage portion, to calculate target pilot compensation. The table below summarizes the effect of changing this calculation on target pilot compensation.

MODIFIED CALCULATION OF BENEFITS

Monthly Component	(First mate) Pilots on undesignated waters	(Master) Pilots on designated waters
Employer Contribution—401(k) Plan	$552.64	$828.96
Clerical	330.53	330.53
Health	2,064.79	2,064.79
Pension	1,283.10	1,283.10
Monthly Total Benefits	4,231.05	4,507.37
Monthly Total Benefits × 9	38,079	40,566
Total Wages Plus Benefits	145,170	201,201

F. Summary of Modifications to the Number of Pilots Needed

The following table, ''Number of Pilots Needed'', shows the revised calculation of the number of pilots needed in each Area for the remainder of the 2005 navigation season, based upon rounding up fractionalized pilot numbers in the March 2005 interim rule and adding one pilot each to Areas 1 and 2:

NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2005 bridge hours	Divided by bridge-hour target	Pilots needed
Area 1	6,000	1,000	6.0
Area 2	9,000	1,800	5.0
Area 4	9,000	1,800	5.0
Area 5	7,000	1,000	7.0
Area 6	18,000	1,800	10.0
Area 7	4,000	1,000	4.0
Area 8	12,600	1,800	7.0

G. Summary of Modifications to the Projection of Target Pilot Compensation

The projection of target pilot compensation has also been modified to reflect the changes discussed above. The projection of target pilot compensation was adjusted by multiplying the increased number of pilots in each Area by the increase in compensation, as calculated above, as follows:

District one	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projection of target pilot compensation	$1,207,209	$725,848	$1,933,057

District two	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total district two
Projection of target pilot compensation	$725,848	$1,408,410	$2,134,258

District three	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projection of target pilot compensation	$1,451,696	$804,806	$1,016,187	$3,272,689

H. Summary of Modifications to the Projections Of Revenue

Similarly, the projections of revenue for each District appearing in the March 2005 interim rule must be modified to take into consideration the increase in bridge hours. This has been done by calculating the revenue earned per bridge hour and multiplying that by the increase in bridge hours, as follows:

District one		Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projection of revenue		$1,246,800	$985,140	$2,231,940
District two		Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total district two
Projection of revenue		$912,150	$1,463,770	$2,375,920
District three	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projection of revenue	$1,760,947	$895,480	$1,251,936	$3,908,363

I. Summary of Modifications to the Projected Rates of Return on Investment

Using the methodology below, and inserting the revised numbers referred to above, the Adjustment Determination is modified, yielding revised projected rates of return on investment. This step considers the modifications made to revenues, expenses, pilot compensation, and rates of return on investment, as set out below:

ADJUSTMENT DETERMINATION

[Projected rate of return on investment]

Line	Ratemaking projections for basic pilotage
1	+ Revenue (from Step 3).
2	− Operating Expenses (from Step 1).
3	− Pilot Compensation (from Step 2).
4	= Operating Profit/(Loss).
5	− Interest Expense (from financial reports).
6	= Earnings Before Tax.

ADJUSTMENT DETERMINATION—Continued

[Projected rate of return on investment]

Line	Ratemaking projections for basic pilotage
7	− Federal Tax Allowance.
8	= Net Income.
9	Return Element (Net Income + Interest).
10	÷ Investment Base (from Step 4).
11	= Projected Rate of Return on Investment.

DISTRICT ONE—PROJECTED RATE OF RETURN ON INVESTMENT

Line	Area 1	Area 2	Total District One
1	$1,246,800	$985,140	$2,231,940
2	$368,186	$372,911	$741,097
3	$1,207,209	$725,848	$1,933,057
4	($328,595)	($113,619)	($442,214)
5	$0	$0	$0
6	($328,595)	($113,619)	($442,214)
7	$0	$0	$0
8	($328,595)	($113,619)	($442,214)
9	($328,595)	($113,619)	($442,214)
10	$142,622	$179,637	$322,259
11	(2.304)	(0.632)	(1.468)

DISTRICT TWO—PROJECTED RATE OF RETURN ON INVESTMENT

Line	Area 4	Area 5	Total District 2
1	$912,150	$1,463,770	$2,375,920
2	$427,333	$632,117	$1,059,450
3	$725,848	$1,408,410	$2,134,258
4	($241,031)	($576,757)	($817,788)
5	$9,028	$9,028	$18,056
6	($250,059)	($585,785)	($835,844)
7	$4,282	$4,282	$8,564
8	($254,341)	($590,067)	($844,408)
9	($245,313)	($581,039)	($826,352)
10	$358,974	$428,132	$787,106
11	(0.683)	(1.357)	(1.020)

DISTRICT THREE—PROJECTED RATE OF RETURN ON INVESTMENT

Line	Area 6	Area 7	Area 8	Total District
1	$1,760,947	$895,480	$1,251,936	$3,908,363
2	$693,924	$271,563	$433,484	$1,398,971
3	$1,451,696	$804,806	$1,016,187	$3,272,689
4	($384,673)	($180,889)	($197,735)	($763,297)

DISTRICT THREE—PROJECTED RATE OF RETURN ON INVESTMENT—Continued

Line	Area 6	Area 7	Area 8	Total District
5	$1,235	$1,235	$1,235	$3,705
6	($385,908)	($182,124)	($198,970)	($767,002)
7	$0	$0	$0	$0
8	($385,908)	($182,124)	($198,970)	($767,002)
9	($384,673)	($180,889)	($197,735)	($767,002)
10	$445,915	$172,274	$272,507	$890,696
11	(0.863)	(1.050)	(0.726)	(0.879)

J. Summary of Modifications To Projected Rates of Return on Investment Versus Target Rates of Return on Investment

The following table, ''Comparison of Projected Rates of Return on Investment and Target Rates of Return on Investment'', recalculates for the final rule the difference between the Projected Rates of Return on Investment and Target Rates of Return on Investment to compute the revised revenue needed component of the methodology to determine the rate adjustment.

COMPARISON OF PROJECTED RATES OF RETURN ON INVESTMENT AND TARGET RATES OF RETURN ON INVESTMENT

	Projected returns on investment	Target returns on investment	Difference in returns on Investment
District One	(1.468)	.0567	(1.412)
District Two	(1.020)	.0567	(0.964)
District Three	(0.879)	.0567	(0.823)

K. Summary of Modifications to the Revenue Needed Adjustment Determination

The formula used to recalculate the revenue needed adjustment determination is similar to the formula used in determining the recalculated projected rates of return on investment.

REVENUE NEEDED ADJUSTMENT DETERMINATION

Line	Ratemaking projections for basic pilotage
1	+ Revenue (Revenue Needed).
2	− Operating Expenses (from Step 1).

REVENUE NEEDED ADJUSTMENT DETERMINATION—Continued

Line	Ratemaking projections for basic pilotage
3	− Pilot Compensation (from Step 2).
4	= Operating Profit/(Loss).
5	− Interest Expense (from financial reports).
6	= Earnings Before Tax.
7	− Federal Tax Allowance.
8	= Net Income.
9	Return Element (Net Income + Interest).
10	÷ Investment Base (from Step 4).
11	= Revenue Needed Adjustment Rate.

To find the proper revised adjustment determination, projected revenue, as determined in Step 3, is adjusted in each Area until the formula used in determining the projected rates of return on investment yields projected rates of return on investment equal to the target rates of return on investment from Step 5. The following tables show the results of these revised calculations:

DISTRICT ONE—ADJUSTMENT DETERMINATION

Line	Area 1	Area 2	Total district one
1	$1,583,482	$1,108,944	$2,692,426
2	368,186	372,911	741,097
3	1,207,209	725,848	1,933,057
4	8,087	10,185	18,272
5	0	0	0
6	8,087	10,185	18,272
7	0	0	0
8	8,087	10,185	18,272
9	8,087	10,185	18,272
10	142,622	179,637	322,259
11	0.0567	0.0567	0.0567

DISTRICT TWO—ADJUSTMENT DETERMINATION

Line	Area 4	Area 5	Total district two
1	$1,177,817	$2,069,085	$3,246,902
2	427,333	632,117	1,059,450
3	725,848	1,408,410	2,134,258
4	24,636	28,557	53,193
5	9,028	9,028	18,056
6	15,608	19,529	35,137
7	4,282	4,282	8,564
8	11,326	15,247	26,573
9	20,354	24,275	44,629
10	358,974	428,132	787,106
11	0.0567	0.0567	0.0567

DISTRICT THREE—ADJUSTMENT DETERMINATION

Line	Area 6	Area 7	Area 8	Total district
1	$2,170,903	$1,086,137	$1,465,122	$4,722,162
2	693,924	271,563	433,484	1,398,971
3	1,451,696	804,806	1,016,187	3,272,689
4	25,283	9,768	15,451	50,502
5	1,235	1,235	1,235	3,705
6	24,048	8,533	14,216	46,797
7	0	0	0	0
8	24,048	8,533	14,216	46,797
9	25,283	9,768	15,451	50,502
10	445,915	172,274	272,507	890,696
11	0.0567	0.0567	0.0567	0.0567

L. Summary of Modifications to the Adjustment of Pilotage Rates

Revised pilotage rate adjustments are calculated for each Area by multiplying the pilotage rates in each Area by the rate multiplier. The rate multiplier is calculated by inserting the result from the steps detailed above into the following formula:

RATE MULTIPLIER

Line	Rate multiplier
1	Revenue Needed (from Step 6(C)).
2	÷ Projected Revenue (from Step 3).
3	= Rate multiplier.

The following are the revised calculations for the rate multiplier by District and Area:

DISTRICT ONE—RATE MULTIPLIER

[Revenue Needed ÷ Projected Revenue = Rate Multiplier]

Area 1	$1,583,482	$1,246,800	1.27
Area 2	1,108,944	985,140	1.13
District Total	2,692,426	2,231,940	1.21

DISTRICT TWO—RATE MULTIPLIER

[Revenue Needed ÷ Projected Revenue = Rate Multiplier]

Area 4	$1,177,817	$912,150	1.29
Area 5	2,069,085	1,463,770	1.41
District Total	3,246,901	2,375,920	1.37

DISTRICT THREE—RATE MULTIPLIER

[Revenue Needed ÷ Projected Revenue = Rate Multiplier]

Area 6	$2,170,903	$1,760,947	1.23
Area 7	1,086,137	895,480	1.21
Area 8	1,465,122	1,251,936	1.17
District Total	4,722,162	3,908,363	1.21

TOTAL ALL DISTRICTS—RATE MULTIPLIER

[Revenue Needed ÷ Projected Revenue = Rate Multiplier]

District One Total	$2,692,426	÷$2,231,940	1.21
District Two Total	3,246,901	÷ 2,375,920	1.37
District Three Total	4,722,162	÷ 3,908,363	1.21
All Districts	10,661,489	÷ 8,516,223	1.25

M. Summary of Seven-Step Rate Calculation

The revised seven-step calculation of the methodology is summarized in the tables below by Area and for each District.

District One	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Step 1, Projection of operating expenses	$368,186	$372,911	$741,097
Step 2, Projection of target pilot compensation	1,207,209	725,848	1,933,057
Step 3, Projection of revenue	1,246,800	985,140	2,231,940
Step 4, Calculation of investment base	142,622	179,637	322,259
Step 5, Determination of target return on investment	5.67%	5.67%	5.67%
	8,087	10,185	18,272
Step 6, Adjustment determination	1,583,482	1,108,944	2,692,426
Step 7, Adjustment of pilotage rates	1.27	1.13	1.21

District two	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total district two
Step 1, Projection of operating expenses	$427,333	$632,117	$1,059,450
Step 2, Projection of target pilot compensation	725,848	1,408,410	2,134,258
Step 3, Projection of revenue	912,150	1,463,770	2,375,920
Step 4, Calculation of investment base	358,974	428,132	787,106
Step 5, Determination of target return on investment	5.67%	5.67%	5.67%
	20,354	24,275	44,629
Step 6, Adjustment determination	1,177,817	2,069,085	3,246,901
Step 7, Adjustment of pilotage rates	1.29	1.41	1.37

District three	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Step 1, Projection of operating expenses	$693,924	$271,563	$433,484	$1,398,971
Step 2, Projection of target pilot compensation	1,451,696	804,806	1,016,187	3,272,689
Step 3, Projection of revenue	1,760,947	895,480	1,251,936	3,908,363
Step 4, Calculation of investment base	445,915	172,274	272,507	890,696
Step 5, Determination of target return on investment	5.67%	5.67%	5.67%	5.67%
	25,283	$9,768	15,451	50,502
Step 6, Adjustment determination	2,170,903	1,086,137	1,465,122	4,722,162
Step 7, Adjustment of pilotage rate	1.23	1.21	1.17	1.21

Based on the above calculations and all the documents and records used in this rate adjustment, the Coast Guard has determined it is appropriate to adjust the rates in accordance with the above tables.

The Coast Guard amends the pilotage rates for the waters treated in 46 CFR 401.405 through 46 CFR 401.410 by multiplying the current pilotage rates by the difference between the rate multiplier calculated for the March 2005 interim rule and the calculations for this final rule for each pilotage Area. The following table shows the percentage changes in rates by Area.

2005 FINAL RULE AREA RATE ADJUSTMENTS

	March 10, 2005 IR rate adjustments (percent)	Final rule modified rate adjustments (percent)	Difference in rate adjustments based on modifications to March 10, 2005 IR (percent)
Area 1	20	27	+7
Area 2	16	13	−3
Area 4	26	29	+3

2005 FINAL RULE AREA RATE ADJUSTMENTS—Continued

	March 10, 2005 IR rate adjustments (percent)	Final rule modified rate adjustments (percent)	Difference in rate adjustments based on modifications to March 10, 2005 IR (percent)
Area 5	29	41	+12
Area 6	16	23	+7
Area 7	16	21	+5
Area 8	13	17	+4

The overall percentage rate increase 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 increased by 5 percent over the March 2005 interim rule. This increase applies to all Areas equally.

IV. Regulatory Evaluation

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 rule is not significant under Executive Order 12866 and has not been reviewed by OMB.

This rule makes final the 20 percent average rate adjustment for the Great Lakes system provided by the March 2005 interim rule (70 FR 12082), and makes final the five percent average rate adjustment for the Great Lakes system provided by the December 2003 interim rule (68 FR 69564). This rule also provides for an additional five percent average increase in pilotage rates. This additional increase is the result of changes made in response to industry and public comments on the ratemaking process and the elimination of surcharges in District One and District Two as discussed in the ''Modifications to the Rate'' section of this 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, wages and benefits, and changes in association expenses, such as FICA, travel costs, and pilot boats. The rate adjustments in this final rule use financial data from the 2002 base accounting year, which is the last year of available data from the independent accountant's reports of the Districts' financial statements. The last full-rate adjustment occurred in 2001 and used financial data from the 1997 base accounting year.

The increase in pilotage rates will be an additional cost for shippers to transit the Great Lakes system. This rule results in a distributional effect that transfers payments (income) from vessel owners and operators to Great Lake pilot associations through Coast Guard regulated pilotage rates.

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.

For instance, after a review of some pilot source forms, the forms used to record the actual pilotage transaction on the vessel, we discovered a case of a U.S. Great Lakes vessel, a small tanker without registry, that purchased pilotage services in District One to presumably leave the Great Lakes. This vessel, however, is recorded in the Coast Guard's data as a vessel operating only in the Great Lakes, which would make it exempt from the pilotage requirements. After consulting with the Coast Guard's Office of Great Lakes Pilotage, the determination was made that this vessel voluntarily chose to use pilots because of the type of cargo it was carrying, possibly hazardous, and the inexperience of the vessel's crew to navigate the locks and passages of District One.

We used recent arrival data from the Coast Guard's National Vessel Movement Center (NVMC) to estimate the annual number of vessels affected by the rate adjustment to be 217 vessels that, for some, make several journeys or trips 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 several stops docking, offloading, and onloading at facilities in Great Lakes ports. Of the total trips for the 217 vessels, there were a total of 1,095 distinct U.S. port arrivals before the vessels left the Great Lakes system, based on an average of 2002 and 2003 vessel arrival data from the NVMC.

We used district pilotage revenues from the independent accountant's reports of the Districts' financial statements to estimate the additional cost to shippers of the rate adjustments in this final rule. These revenues represent the direct and indirect pilotage costs that shippers must pay for pilotage services in order to transit their vessels in the Great Lakes. Table 1 shows historical pilotage revenues by District.

TABLE 1.—DISTRICT REVENUES

[$US]

Year	District One	District Two	District Three	Total
1998	2,127,577	3,202,374	4,026,802	9,356,753
1999	2,009,180	2,727,688	3,599,993	8,336,861

TABLE 1.—DISTRICT REVENUES—Continued

[$US]

Year	District One	District Two	District Three	Total
2000	1,890,779	2,947,798	4,036,354	8,874,931
2001	1,676,578	2,375,779	3,657,756	7,710,113
2002	1,686,655	2,089,348	3,460,560	7,236,563

Source: Annual independent accountant's reports of the Districts to the Coast Guard's Office of Great Lake Pilotage.

While the revenues have decreased over time, the Coast Guard adjusts pilotage rates to achieve a target pilot compensation similar to masters and first mates working on U.S. vessels engaged in the Great Lakes trade.

In this final rule, we have included the cost of transportation incurred by District One in connection with the night relief program and the cost of pilot boat operations incurred by District Two in connection with the operation of the Huron Maid (see the ''Summary of Modifications to Expense Adjustments'' section). Prior to this final rule, pilot associations were assessing these costs to vessel owners and operators in the form of surcharges. We have added these costs to the operating expenses of the pilotage rate methodology. The surcharges collected to recover these expenses will end with the effective date of this final rule.

The elimination of the practice of surcharges and the addition of these surcharges into the operating expenses used in the rate determination of the final rule has the net effect of increasing the overall rate by approximately two percent. Without these additional operating costs, the overall rate increase for the final rule would have been two percent less. These additional operating costs that vessel owners and operators paid in the form of surcharges total $170,559 annually.

Industry previously incurred these costs outside of the operating expenses used for pilotage rate adjustments and now they are included in the associations' operating expenses used in the rate adjustment determination. Since industry incurred these expenses before and will incur the same expenses after the effective date of this final rule, we do not include them as additional costs of the rule to industry. Therefore, we have removed the surcharges from the cost estimate of the final rule.

We estimate the additional cost of the rate adjustments in this final rule to be the difference between the projected revenue and the rate adjustment revenue (revenue needed by the associations) less revenue from surcharge operating expenses (surcharge payments). These revenue values and surcharges are described and calculated in the ''Discussion of the Rule'' section of this final rule. The projected revenue uses the 2002 revenues in Table 1 adjusted for the 2003 rate adjustment interim rule, the 2005 rate adjustment interim rule, and the revenue changes from the additional rate adjustment of this final rule in response to public comments and the removal of surcharges as discussed above. Table 2 compares projected and adjusted revenues and costs of the rule to industry by district (**Note:** Some values may not total due to rounding).

TABLE 2.—REVENUES, RATE ADJUSTMENT FACTORS AND ADDITIONAL COST OF FINAL RULE

[$U.S.] [1]

Year	District one	District two	District three	Total [2]
Base Revenue	1,686,655	2,089,348	3,460,560	7,236,563
Projected Revenue [3]	2,231,940	2,375,920	3,908,363	8,516,223
Total Revenue Needed [4]	2,692,426	3,246,901	4,722,162	10,661,489
Total Revenue Needed Less Surcharge Payments [5]	2,643,732	3,125,036	4,722,162	10,490,930
Additional Revenue or Cost of this Final Rule [6]	411,792	749,116	813,799	1,974,707

[1] For the calculation of projected and adjusted pilotage revenues, see the ''Discussion of Rule'' section of this final rule.
[2] Some values may not total due to rounding.
[3] Projected revenue = '2002 base revenue' + '2003 rate adjustment revenue' + '2005 rate adjustment revenue' + 'revenue changes from the additional rate adjustment of this final rule'.
[4] Total revenue needed = 'projected revenue' × 'total rate adjustment factors in this final rule'.
[5] Total revenue needed less surcharge payments = 'total revenue needed' − 'total annual surcharges'; where total annual surcharges equal $170,559 (see above).
[6] Additional revenue or cost of this final rule = 'total revenue needed less surcharge payments' − 'projected revenue'.

After applying the rate adjustments in this final rule, the resulting difference between the revenue projected and the revenue needed less revenue from surcharge payments is the annual cost for the affected population of this final rule. This figure will be equivalent to the total additional payments that shippers will make for pilotage services from this final rule.

The annual cost of the rate adjustments in this final rule to shippers is approximately $1.97 million (non-discounted). The annual cost of the additional five percent rate adjustment to shippers in this final rule is approximately $470,520 (non-discounted). 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 will pay more and some will 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 will face as a result of the rate adjustments in this final rule.

We estimated the total cost to shippers of the rate adjustments in this final rule over a five-year period, because the Coast Guard is required to determine and, if necessary, adjust Great Lakes pilotage rates at a minimum of at

least once every five years from the last rate adjustment. However, the Coast Guard does evaluate and analyze the Great Lakes pilotage rates every year, regardless of whether an adjustment is needed or not. The total five-year (2006–2010), present value cost estimate of this final rule to shippers is $8.7 million discounted at a seven percent discount rate, and $9.3 million discounted at a three percent discount rate.

The cost to shippers of this final rule is minimal compared with the travel cost shippers save when they use the Great Lakes system. The alternative to Great Lakes waterborne transportation is to choose coastal delivery, such as East Coast and Gulf Coast ports which are more expensive, and extra-modal transportation overland, which is far less practical and has additional transportation costs for all commodity groups. See Coast Guard docket number USCG–2002–11288 for an assessment of alternatives to Great Lakes waterborne transportation and the associated costs entitled ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Pilotage Rate Increases'' (October 1, 2004).

A. Small Entities

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

There are two U.S. entities, which are large shipping firms that operate foreign-flag vessels, engaged in foreign trade, in the Great Lakes system that will be affected by the rate adjustments in this final rule and pay additional costs for pilotage services. The North American Industry Classification System (NAICS) code subsector for these shippers is 483–Water Transportation, and 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. These shippers do not qualify as small entities because their number of employees exceeds 500. We assume that new industry entrants will be comparable in size to these shippers with a large enough employee base and the financial resources to support long international trade routes and, thus, will not be small businesses.

There are three U.S. entities that are affected by the final rule that will receive the additional revenues from the rate adjustments. These are the three pilot associations that are the only entities providing 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 as the U.S. shippers above, but they have far less than 500 employees: approximately 65 total employees combined. However, they are not adversely impacted with the additional costs of the rate adjustments, but instead receive the additional revenue benefits for operating expenses and pilot compensation.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of U.S. small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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 rule would economically affect it.

B. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Paul Wasserman, Director, Office of Great Lakes Pilotage, (G–MWP–2), U.S. Coast Guard, telephone 202–267–2856 or send him e-mail at *pwasserman@comdt.uscg.mil.* 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).

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

D. 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.

E. 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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation. An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are available in the docket where indicated under the section of this preamble on ''Public Participation and Request for Comments.''

■ The interim rule amending 46 CFR part 401 which was published at 70 FR 12082 on March 10, 2005, and corrected at 70 FR 13574 on March 21, 2005, and at 70 FR 15779 on March 29, 2005, is adopted as a final rule with the following change(s):

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	[1] $11 per kilometer or $19 per mile.
Each Lock Transited	[1] $238
Harbor Movage	[1] $779

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $520 and the maximum basic rate for a through trip is $2,281.

(b) *Area 2 (Undesignated Waters):*

Service	Lake Ontario
Six-Hour Period	$368
Docking or Undocking	351

■ 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	$525	$525
Docking or Undocking	405	405
Any Point on the Niagara River below the Black Rock Lock	N/A	$1,033

(b) *Area 5 (Designated Waters):*

Any point on or in	Southeast Shoal	Toledo or any Port on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$1,356	$801	$1,760	$1,356	N/A
Port Huron Change Point	[1] 2,361	[1] 2,735	1,774	1,380	$981
St. Clair River	[1] 2,361	N/A	1,774	1,774	801
Detroit or Windsor Or the Detroit River	1,356	1,760	801	N/A	1,774
Detroit Pilot Boat	981	1,356	N/A	N/A	1,774

[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	$417
Docking or Undocking	$396

(b) *Area 7 (Designated Waters):*

Area	De tour	Gros cap	Any other harbor
Gros Cap	$1,452	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	$1,452	$547	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	$1,217	$547	N/A
Sault Ste. Marie, MI	$1,217	$547	N/A
Harbor Movage	N/A	N/A	$547

(c) *Area 8 (Undesignated Waters):*

Service	Lake Superior
Six-Hour Period	$365
Docking or Undocking	$347

§ 401.420 [Amended]

■ 5. In § 401.420—

a. In paragraph (a), remove the number ''$67'' and add, in its place, the number ''$70''; and remove the number ''$1,048'' and add, in its place, the number ''$1,100''.

■ b. In paragraph (b), remove the number ''$67'' and add, in its place, the number ''$70''; and remove the number ''$1,048'' and add, in its place, the number ''$1,100''.

■ c. In paragraph (c)(1), remove the number ''$396'' and add, in its place, the number ''$416''; in paragraph (c)(3), remove the number ''$67'' and add, in its place, the number ''$70''; and, also in paragraph (c)(3), remove the number ''$1,048'' and add, in its place, the number ''$1,100''.

§ 401.428 [Amended]

■ 6. In § 401.428, remove the number ''$404'' and add, in its place, the number ''$424''.

Dated: March 23, 2006.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention.

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