

Lake Carlos and Lake Darling at bench mark (BM) 1366, which is an unmarked bridge on County Road 11, known as the Carlos-Darling Bridge.

(2) The boundary continues along the Carlos-Darling bridge and then northeasterly along the western shore of Lake Carlos on to the Alexandria East, Minn. map.

(3) The boundary continues along the shoreline until the point where the Lake Carlos shoreline parallels an unlabeled road known as County Road 38.

(4) The boundary continues north along County Road 38 until it intersects with an unlabeled road known as County Road 62.

(5) The boundary continues north along County Road 62 on to the Lake Miltona, East, Minn. map and then on to an unlabeled road known as Buckskin Road.

(6) The boundary continues north on Buckskin Road to the point at BM 1411.

(7) From BM 1411, the boundary continues north in a straight line to the south shoreline of Lake Miltona.

(8) The boundary continues generally west along the south shoreline of Lake Miltona on to the Lake Miltona West, Minn. map until the southern shoreline parallels an unlabeled road known as Krohnfeldt Drive.

(9) The boundary continues south and then west along Krohnfeldt Drive until it intersects with an unlabeled road known as County Road 34.

(10) The boundary continues south along County Road 34 until the point where County Road 34 runs parallel to Lake Ida's eastern shoreline.

(11) The boundary continues south along Lake Ida's eastern shoreline then on to the Alexandria West, Minn. map to the point where two unlabeled roads known as Burkey's Lane and Sunset Strip Road intersect.

(12) The boundary continues south along Sunset Strip Road to the point where it intersects with an unlabeled road known as County Road 104.

(13) The boundary continues generally east along County Road 104 until it intersects with an unlabeled road known as County Road 34.

(14) The boundary continues east along County Road 34 until it intersects with an unlabeled road known as County Road 11.

(15) The boundary continues east along County Road 11 to the beginning point for the area at BM 1366, known as the Carlos-Darling Bridge.

Signed: January 14, 2003.

Bradley A. Buckles,
Director.

[FR Doc. 03-1527 Filed 1-22-03; 8:45 am]

BILLING CODE 4810-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 271-0374b; FRL-7427-7]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District and Yolo-Solano Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Santa Barbara County Air Pollution Control District (SBCAPCD) and the Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). These revisions concern the emission of particulate matter (PM-10) from open fires and prescribed burning and the emission of volatile organic compounds (VOCs) from the transfer of gasoline at dispensing facilities. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by February 24, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B-102, 1301 Constitution Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B-23, Goleta, CA 93117.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

A copy of a rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. This is not an EPA Web site and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted

to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local SBCAPCD Rule 401 and YSAQMD Rule 2.22. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 4, 2002.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 03-1363 Filed 1-22-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG-2002-11288]

RIN 2115-AG30

Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The Coast Guard proposes to update the rates for pilotage on the Great Lakes. We must by law review these rates annually, and we have reviewed them. We propose to change the pilotage rates for the shipping season of 2003 on the Great Lakes, both to generate sufficient funds for allowable expenses and to ensure that the pilots receive target compensation.

DATES: Comments and related material must reach the Docket Management Facility on or before March 10, 2003. A public meeting will be held January 31, 2003.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket,

please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2002-11288), U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 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>. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Tom Lawler, Chief Economist, Office of Great Lakes Pilotage, Commandant (G-MW-1), U.S. Coast Guard, at 202-267-1241, by fax 202-267-4700, or by email at tlawler@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-2002-11288), indicate the specific section of this document to which each comment

applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

A public meeting will be held from 2 p.m. to 4 p.m. on January 31, 2003, in Room B-1, Anthony J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, OH 44199-2060. This meeting may close early if all business is finished.

Written material and requests to make oral presentations can be sent to: Margie Hegy, Commandant (G-MW), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001.

Persons who are unable to attend the public meeting are encouraged to send written comments to the Docket Management Facility as directed under **ADDRESSES** during the comment period.

Background and Purpose

Regulatory History

On May 9, 1996, the Department of Transportation published a final rule in the **Federal Register** (61 FR 21081) establishing a new methodology for setting rates for pilotage on the Great Lakes.

On February 10, 1997, the Coast Guard published a final rule in the **Federal Register** (62 FR 5917) utilizing for the first time the newly established methodology that amended the rates for pilotage on the Great Lakes.

On December 14, 1998, the Coast Guard published a notice of findings on annual review in the **Federal Register** (63 FR 68697) announcing the results of the 1998 rate review and requesting comments. The rates were not amended as a result of this rate review.

On July 12, 2001, the Coast Guard published a final rule in the **Federal Register** (66 FR 36484) amending the rates for pilotage on the Great Lakes.

On July 19, 2002, as the result of a lawsuit filed by District Two, the Coast Guard published a temporary final rule

in the **Federal Register** (67 FR 47464) entitled "Basic Rates and Charges on Lake Erie and the Navigable Waters From Southeast Shoal to Port Huron, MI". The rule returned the rate in District Two, Area 5, to the one that was in place prior to August 13, 2001.

On August 26, 2002, the Coast Guard published a notice of meetings in the **Federal Register** (67 FR 54836) for four public meetings to be held in regard to issues relevant to Great Lakes Pilotage Bridge Hour Standards. The Coast Guard also announced it is conducting a review to determine the appropriate bridge hour standards.

Purpose of This Notice of Proposed Rulemaking (NPRM)

The Coast Guard must, under 46 CFR 404.1(b), conduct an annual review of the rates for pilotage on the Great Lakes using the procedures found at Appendix C to 46 CFR part 404. In addition, every five years the Coast Guard must perform a review using the methodology contained in 46 CFR part 404, Appendix A. At Step 2.A of Appendix A, we explain the target pilot compensation for pilots providing service on designated waters of the Great Lakes is approximately the average annual compensation for masters on U.S. Great Lakes vessels. The target pilot compensation for pilots providing service on undesignated waters of the Great Lakes is approximately the average annual compensation for first mates of such vessels. We have reviewed the current pilotage rates and determined that they should be adjusted to meet target pilot compensation and allowable expenses. Therefore, in accordance with 46 U.S.C. 9303(f), and on the basis of the rate review for 2002, we propose to amend the rates for pilotage on the Great Lakes to meet these needs. We would like your comments on the updated rates.

Relationship of This Rulemaking to the Coast Guard's Ongoing Bridge Hour Study

On July 1, 2002, the Assistant Commandant for Marine Safety, Security and Environmental Protection, commissioned a study to review the methodology for developing bridge hour standards for Great Lakes pilotage (67 FR 54836 (August 26, 2002)). This Bridge Hour Study is scheduled to be completed by January 31, 2003. The Study will explore the historical development of the bridge hour standard currently used in the ratemaking methodology for U.S. Great Lakes pilots. The goal of this study is to determine what the appropriate bridge

hour standard for designated and undesignated waters should be in each of the three Districts. It will explore issues such as whether the bridge hour standard should include hours associated with delay, detention, cancellation, and travel time.

The findings of the Bridge Hour Study could cause the Coast Guard to modify the current bridge hour standard. Any significant modification in the bridge hour standard would, in turn, have a significant effect on the rate for 2003 under the existing methodology. The Coast Guard considered holding up the ratemaking process until the results of the Bridge Hour Study were available and the Coast Guard made any subsequent modifications to the bridge hour standard. Militating against this approach however, were the results of the Coast Guard's annual and five-year audits, that indicated that the 2003 season would see a substantial adjustment in the rates. Ultimately, the Coast Guard concluded that because it projected a substantial rate adjustment for 2003, it should not delay the process, but should have the new rate

published before the beginning of the new season. Accordingly, the Coast Guard intends to issue an interim rule on or before February 14, 2003, to be effective March 15, 2003, in time for the new season.

Once it completes its evaluation of the Bridge Hour Study, the Coast Guard intends to issue a final rule that incorporates any appropriate modifications to the bridge hour standard along with any corresponding modification in pilotage rates. The Coast Guard will provide notice of any proposed changes and solicit and consider public comments, as well as input from the Great Lakes Pilotage Advisory Committee, before issuing its final rule.

What Is the Coast Guard Proposing in This Rulemaking?

We propose to change the pilotage rates for waters treated in 46 CFR 401.405, 401.407, and 401.410 as follows:

If you require pilotage in:	The rate would:
Area 1 (Designated)	Increase 23%.

If you require pilotage in:	The rate would:
Area 2	Increase 62%.
Area 4	Increase 31%.
Area 5 (Designated)	Increase 17%.
Area 6	Increase 20%.
Area 7 (Designated)	Increase 3%.
Area 8	Increase 28%.

We also propose to increase the pilotage rates for the "Cancellation, delay or interruption in rendering services" and "Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point" in 46 CFR 401.420 and 401.428, respectively, by 25 percent—the average rate change for all districts.

Discussion of Methodology

This proposed rulemaking follows the methodology detailed in 46 CFR part 404, Appendix A, including the step-by-step five-year ratemaking calculations contained in Appendix A. We summarize these calculations in the following tables (and explain them in more detail afterwards):

TABLE A.—DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Step 1, Projection of operating expenses	\$315,253	\$284,253	\$559,506
Step 2, Projection of target pilot compensation	\$1,040,742	\$734,562	\$1,775,304
Step 3, Projection of revenue	\$1,105,233	\$629,149	\$1,734,382
Step 4, Calculation of investment base	\$50,000	\$50,000	\$100,000
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	\$1,356,243	\$1,019,063	\$2,375,306
Step 7, Adjustment of pilotage rates	1.23 (+23%)	1.62 (+62%)	1.37 (+37%)

TABLE B.—DISTRICT TWO

	Area 4 Lake Erie	Area 5 South- east Shoal to Port Huron, MI	Total District Two
Step 1, Projection of operating expenses	\$312,726	\$497,445	\$810,171
Step 2, Projection of target pilot compensation	\$612,135	\$1,214,199	\$1,826,334
Step 3, Projection of revenue	\$705,015	\$1,461,069	\$2,166,084
Step 4, Calculation of investment base	\$89,734	\$140,353	\$230,087
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	\$925,306	\$1,712,340	\$2,637,646
Step 7, Adjustment of pilotage rates	1.31 (+31%)	1.17 (+17%)	1.22 (+22%)

TABLE C.—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	\$616,292	\$462,219	\$462,219	\$1,540,730
Step 2, Projection of target pilot compensation	\$1,224,270	\$693,828	\$856,989	\$2,775,087
Step 3, Projection of revenue	\$1,540,306	\$1,119,819	\$1,030,693	\$3,690,818
Step 4, Calculation of investment base	\$111,668	\$83,752	\$83,752	\$279,172
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%	7.04%
Step 6, Adjustment determination	\$1,841,115	\$1,156,463	\$1,319,623	\$4,317,201

TABLE C.—DISTRICT THREE—Continued

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Step 7, Adjustment of pilotage rate	\$1.20 (+20%)	1.03 (+3%)	1.28 (+28%)	1.17 (+17%)

Here is a detailed explanation of our step-by-step calculations:

Step 1.A: Submission of Financial Information

The first step is gathering financial data from each of the three Great Lakes pilots' districts. Each district must obtain an audit by an independent Certified Public Accountant (CPA) and submit it to the Acting Director (the Director) of Great Lakes Pilotage, in accordance with 46 CFR 403.300.

Step 1.B: Determination of Recognizable Expenses

The Director determines which association expenses will be recognized for ratemaking purposes each year. The Director hires an independent CPA to review the expenses reported by the associations using the guidelines contained in 46 CFR 404.05. To determine which expenses were reasonable and necessary to include in our 2002 rate review, we used the Director's independent audit of the associations for 2001. In the following paragraphs, we discuss some of the

audit's details. We have also provided a table containing the expenses recognized and approved by the Director.

We calculate target pilot compensation for both designated and undesignated waters each year based on the current union contract for first mates on U.S. Great Lakes vessels. We add that amount to the total expenses to determine the revenue needed for ratemaking purposes.

In 2001, to support safety and ongoing professional development, each association was asked to develop a continuing education program for registered pilots and to submit to the Director a proposed annual budget. The purpose of the program is to keep registered pilots aware of safety issues and to refresh their skills. The Director approved each district's program together with their estimate of yearly costs (District One, \$30,000; District Two, \$40,000; and District Three, \$50,000) and included these amounts in their respective expense bases in the final rule published on July 12, 2001, in

the **Federal Register** (63 FR 68697) with the new rates becoming effective August 13, 2001. The Director's 2001 audit disclosed that the pilots' associations during the remainder of the 2001 navigation season were only able to expend approximately 50 percent of the Director's training allocation that was included in the final rule (63 FR 68697). Therefore, the Director is adjusting the expense base of each pilots' association to reflect the full amount the Director previously approved (District One, \$30,000; District Two, \$40,000; and District Three, \$50,000). This will ensure adequate funding for this program on a continuing yearly basis. The Director will continually monitor the plans to ensure they are effectively implemented, that the money is accounted for and applied properly to each district's continuing education account. The Director reserves the right to modify each plan as necessary.

Accordingly, the Director has added the following amounts to each district's expense base to support this program on a yearly basis:

	District One	District Two	District Three
2001 Expenditure	\$8,128	\$19,500	\$25,000
Director's Adjustment	21,872	20,500	25,000
Total Yearly Training	30,000	40,000	50,000

Additionally, effective August 1, 2002, the current union contract for first mates on the Great Lakes stipulates: "that employers will make matching contributions for each participating 401(k) plan employee in an amount equal to 50 percent of the employee's contribution, to a maximum of 5 percent of a participating employee's

compensation." District Two has a pension plan, while District Three has a 401(k) plan. District One does not provide either a 401(k) or pension plan for its members. Therefore, to conform to the current union contract for first mates in accounting for an employer's contribution of 50 percent, expense bases of Districts Two and Three are

increased by \$41,817 and \$66,159 based on their total employee 401(k)/pension contributions in 2001 of \$83,634 and \$132,318, respectively.

The following table displays audit results, along with the CPA's and Director's adjustments:

RECOGNIZABLE EXPENSES

	District One	District Two	District Three
Reported expenses for 2001	\$687,591	\$1,386,376	\$1,336,710
Proposed adjustments (independent CPA)	<i>Equalization Between Districts:</i> \$10,120 \$62,096	<i>Equalization Between Districts:</i> None	<i>Equalization Between Districts:</i> \$143,035 \$152,535

RECOGNIZABLE EXPENSES—Continued

	District One	District Two	District Three
	<i>Reimbursed Ex-penses:</i> (\$13,000)	<i>Reimbursed Ex-penses:</i> (\$83,376) (\$174,414) (\$211,849)	<i>Reimbursed Ex-penses:</i> (\$163,207)
	<i>Not Recognized or Allowed:</i> (\$782) (\$43,100)	<i>Not Recognized or Allowed:</i> (\$74) (\$720) (\$28,124)	<i>Not Recognized or Allowed:</i> (\$995) (\$19,780)
	<i>Misclassified Ex-penses:</i> (\$4,500) (\$11,740) (\$120,377)	<i>Misclassified Ex-penses:</i> (\$8,600) (\$20,470)	<i>Misclassified Ex-penses:</i> (\$4,050) (\$23,100)
	<i>Undocumented Ex-penses:</i> None	<i>Undocumented Ex-penses:</i> (\$125,559)	<i>Undocumented Ex-penses:</i> None
Total expenses 2001 +	\$566,308	\$733,190	\$1,421,148
Inflation adjustment (2%)	\$11,326	\$14,664	\$28,423
Director's adjustments	\$21,872	\$20,500	\$25,000
		\$41,817	\$66,159
Total projected expenses for 2003 pilotage season	\$599,506	\$810,171	\$1,540,730

The following is a summary of the independent CPA's major findings and proposed adjustments, along with the Director's corresponding adjustments:

Summary of Major Findings and Proposed Adjustments

We divided the adjustments we made to the reported expenses into five categories: (1) equalization among districts, (2) reimbursed expenses, (3) expenses not reasonable or necessary for pilotage services (46 CFR 404.5(a)), (4) misclassified expenses, and (5) undocumented expenses.

(1) Equalization Among Districts

The Coast Guard must ensure that each association's expenses are analyzed fairly and consistently with the other associations because of how they are organized. The associations of Districts One and Three are organized as partnerships, while the association of District Two is organized as a corporation. Because of this difference, the District Two association pays the employer's share of Social Security and Medicare taxes, insurance, and travel expenses out of corporate funds. In the associations of Districts One and Two, the individual pilots pay these expenses because each pilot is self-employed. Because these taxes, insurance, and travel expenses are legitimate business expenses that should be recognized for ratemaking purposes, funds for these expenses have been added to District One and Three's expense bases on the independent CPA's recommendation. In District One, \$62,096 in Social Security

and Medicare taxes, and \$10,120 in travel expenses have been added to the expense base. In District Three, \$143,035 in Social Security and Medicare taxes, along with \$152,535 in travel expenses have been added to the expense base.

(2) Reimbursed Expenses

The independent CPA found that a number of expenses are reimbursed to the pilots' associations and recommended that these expenses should not be included in each district's expense base. Examples are reimbursement from one pilots' association to another for shared pilot boats and dispatch, reimbursement for dividends received on Workmen's Compensation premiums, and reimbursement from Canadian pilots for shared administrative expenses, dispatch, and pilot boat services.

The Director agrees with the independent CPA's recommendation to deduct these reimbursed expenses from the expense bases of the districts. Although these are legitimate business expenses, they are paid for by other districts or parties, not by the associations claiming them, and, as such, should not be included in the expense base of the district being reimbursed. In District Two, we deducted \$174,414 and \$83,376 in reimbursed expenses for pilotage and dispatch services and for the refund of Workmen's Compensation premiums of \$211,849, from the expense base. Likewise, in District Three, we deducted \$163,207 in reimbursed expenses for

pilotage and in dispatch services from the expense base.

Settlement of a lawsuit in 2002 reimbursed the District One Pilots' Association \$13,000 in legal fees. Accordingly, we have deducted this reimbursed amount from the expense base.

(3) Expenses Not Recognized or Not Allowed as Reasonable or Necessary for the Provision of Pilotage Services (46 CFR 404.5(a))

Excessive capital lease costs associated with the rental of two pilot boats, lobbying expenses, and certain miscellaneous expenses (advertising, business promotion, and donations) were identified as unnecessary for the provision of pilotage services.

During 2001, District Two paid Erie Leasing \$62,950 in lease cost for the rental of two pilot boats. The Director considers this cost unreasonable. In 46 CFR 404.5(a)(3), it states:

Lease costs for both operating and capital leases are recognized for ratemaking purposes to the extent that they conform to market rates. In the absence of a comparable market, lease costs are recognized for ratemaking purposes to the extent that they conform to depreciation plus an allowance for return on investment (computed as if the asset had been purchased with equity capital). The portion of lease costs that exceed these standards is not recognized for ratemaking purposes.

Using this methodology, with the cost of the pilot boats being \$315,000, a market return of 7.04 percent, and a depreciation amount of \$9,450, the

result is an allowable lease expense of \$31,626 ($\$315,000 \times 7.04\% = \$22,176 + \$9,450 = \$31,626$). To bring pilot-boat expenses of District Two into line with those of Districts One and Three, the Director is reducing District Two's expense base by \$28,124 ($\$59,750$ rental fee - $\$31,626$ allowable fee = $\$28,124$ excessive lease fee).

The Director, in consultation with the District One Pilots' Association, identified \$43,100 in lobbying expenses and has deducted this amount from its expense base because they are not recognized for ratemaking purposes.

In addition, the independent CPA has recommended a deduction from District One's expenses of \$782 for advertising, two deductions from District Two's expenses in amounts of \$74 for business promotion and \$720 for donations, and \$995 from District Three's expense base for donations. None of these expenses is necessary for the provision of pilotage services. The independent CPA further recommended a deduction of \$19,780 from District Three's expenses for an uncollectable account or bad debt. While this treatment of bad debt is an acceptable practice for financial reporting, it is unnecessary for ratemaking in that it is a one-time, non-recurring expense. The Director agrees with the independent CPA and has deducted all these expenses from the expense bases.

(4) Misclassified Expenses

The independent CPA recommended deductions of \$4,500, \$11,740, and \$120,377 from District One, \$8,600 and \$20,470 from District Two, and \$4,050 and \$23,100 from District Three because these payments were made directly to pilots as compensation. District One paid \$4,500 to registered pilots to train temporarily registered pilots on Lake

Ontario and \$120,377 to an independent registered pilot for the provision of pilotage services. District Two made payments to pilots in the amount of \$8,600 to attend yearly meetings. This was paid in addition to payments to pilots for travel and *per diem* expenses. Additionally, District One made payments of \$11,740 in union dues, District Two made payments of \$20,470 in association dues, and District Three made payments of \$4,050 and \$23,100 for subscriptions and union dues. The Director agrees with the independent CPA because the payments benefit pilots and will be treated as pilot compensation in accordance with 46 CFR 404.5(a)(6), and he deducted these payments from the districts' expense bases.

(5) Undocumented Expenses

A detailed inspection of District Two's expense accounts and annual audited financial statements disclosed payments of \$38 daily per diem to each pilot based on days available. These payments in November 2001 and late December 2001 totaled \$125,559 and were not documented. The Internal Revenue Service procedures (Rev. Proc. 2001-47) require substantiation as to time, place, and purpose of expenses paid. These payments were in addition to properly documented travel and per diem payments made throughout the year. The total combined per diem (food and incidental) expense claimed actually exceeded the maximum amount possible if every pilot would have been on travel for every day during the season. The travel regulations do not contemplate a payment based on "days available" for travel. The independent CPA recommended that \$125,559 be deducted from District Two's expense base. The Director agrees and has

deducted the amount from the expense base and treated it as pilot compensation in accordance with 46 CFR 404.5(a)(6). Properly substantiated and documented travel and per diem costs incurred while a pilot is engaged in legitimate travel in connection with the provision of pilotage service will be recognized for ratemaking purposes.

Step 1.C: Adjustment for Inflation or Deflation

To adjust expenses for inflation (there being no deflation, yet), we increased the total recognized expenses for each association by two percent. This figure is based on the approximate average change in the Consumer Price Index (CPI) from July 2001 to November 2002.

Step 1.D: Projection of Operating Expenses

Once all adjustments are made to the recognized operating expenses, the Director projects these expenses for each pilotage area. The Director considers foreseeable circumstances that could affect the accuracy of the expenses as projected and, as well as possible, determines the "projection of operating expenses."

District-wide general and administrative expenses are apportioned to each area according to the number of pilots in that area. Expenses that are attributable to a pilotage area are applied directly to it. For instance, in District One, approximately \$31,000 in taxi expense is directly attributable to Area 1; but the remaining general and administrative expense in District One is then apportioned according to the number of pilots assigned to Areas 1 and 2. The results of Step 1.D for each district are displayed as follows:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of operating expenses	\$315,253	\$284,253	\$599,506

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Projection of operating expenses	\$312,726	\$497,445	\$810,171

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	\$616,292	\$462,219	\$462,219	\$1,540,730

Step 2.A: Determination of Target Rate of Compensation

For pilots providing service in undesignated waters, the target rate of compensation is approximately the average yearly compensation earned by first mates on U.S. Great Lakes vessels. Effective August 1, 2002, according to the American Maritime Officers Union (AMOU), the average yearly compensation is \$122,427. This rate covers wages and benefits, which comprises work days, vacation pay, weekend pay, holiday pay, bonuses, clerical pay, medical and pension benefits.

For pilots providing services in designated waters, the target rate of compensation is calculated as 1.5 times the yearly salary of a first mate plus benefits, (1.5 × 100,944 = \$151,416 (Yearly Salary) + \$22,041 (Benefits) = \$173,457 (Pilot Target Compensation effective August 1, 2002).

The Coast Guard adopted this method of calculating the rate because it most accurately achieves the stated goal of

approximating the salary of a Great Lakes Master. This method is the same method we used in the final rule establishing rates in 1997 (62 FR 5917 (February 10, 1997)) and again in 2001 (66 FR 36484 (July 12, 2001)).

Effective August 1, 2002, the daily contractual rate of wages for first mates is \$207.70. We multiply the daily rate by 54 days (30.5 work days, 15 vacation days, 4 weekend days, 1.5 holidays, and 3 bonus days) to determine the monthly rate for undesignated waters. This monthly rate is then multiplied by 1.5 to determine the monthly rate for designated waters (monthly rate for undesignated waters × 1.5 = monthly rate for designated waters). Only then is the cost of benefits (pensions, health care, and clerical support) added to the monthly rates for both undesignated and designated waters. These figures are then multiplied by 9 to yield total yearly target pilot compensation. The calculation goes as follows: the daily rate of wages specified in the first mates' union contract, effective August 1, 2002,

is \$207.70. The daily rate is then multiplied by 54 to determine the monthly rate, \$11,216. Added to this figure are the monthly costs of first mates' clerical support, \$126; health benefits, \$1,748; and their pension, \$513. The monthly total of wages and benefits comes to \$13,603. This figure is then multiplied by 9 to yield a total target pilot compensation for undesignated waters of \$122,427.

For designated waters, the monthly rate of wages, calculated above, is multiplied by 1.5, totaling \$16,824. To this figure, we add the monthly cost of a masters' clerical support, \$188; the monthly health benefits, \$1,748; and the monthly cost of their pension benefits, \$513. The monthly total of wages and benefits now comes to \$19,273. This figure is then multiplied by 9, to yield a total target pilot compensation for designated waters of \$173,457.

The table below summarizes how the total target pilot compensation is determined for undesignated and designated waters:

Monthly component ¹	Monthly (First Mate) pilots on undesignated waters	Monthly (Master) pilots on designated waters
\$207.70 (Daily Rate) × 54 (Days)	\$11,216
\$207.70 (Daily Rate) × 54 × 1.5	\$16,824
Clerical	126	188
Health ²	1,748	1,748
Pension ³	513	513
Monthly Total	13,603	19,273
Monthly Total × 9 Months	122,427	173,457

¹ For the purposes of the 2002 rate review, pilots are assumed to work 180 man days a year for a total of 270 days for both health and pension benefits (180 working days a year/60 = 3, 3 × 30 = 90 extra days of payments; 180 working days + 90 days of extra payments = 270 days of payments).

² Health benefits are \$15,372 a year, or \$1,748 a month for nine months (270 paid days a year × \$58.26 a day worked = \$15,372 of compensation/9 months = \$1,748 a month.)

³ Pension benefits are paid at the same proportion as the health benefits, though at a daily rate of \$17.09. Using the same methodology as for the health benefits, yearly pension benefits are \$4,608 a year, or \$513 a month for nine months (270 paid days a year × \$17.09 a day worked = \$4,608 a year; \$4,614 a year/9 months = \$513 a month.)

Step 2.B: Determination of Number of Pilots Needed

The number of pilots needed in each area is determined by dividing the projected bridge hours, excluding delay and detention hours for each area, by the targets for each area *i.e.*, 1,000 hours in designated waters and 1,800 hours in

undesignated waters. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. The Director projects that bridge hours for the 2003 season will be the same as or comparable to the totals of 2001.

Dividing the projected annual number of bridge hours per area by the target

number of bridge hours per pilot determines the number of pilots required in each area to service vessel traffic.

Pilotage area	Projected 2003 bridge hours	Divided by bridge-hour target	Pilots required
Area 1	5,407	1,000	5.4
Area 2	6,130	1,800	3.4
Area 4	8,298	1,800	4.6
Area 5	6,395	1,000	6.4
Area 6	19,016	1,800	10.5
Area 7	4,320	1,000	4.3
Area 8	12,354	1,800	6.9

The following bullets list the number of pilots, by area, the Director has authorized for the 2003 navigation season:

- Area 1: Six pilots.
- Area 2: Six pilots.
- Area 4: Five pilots.
- Area 5: Seven pilots.
- Area 6: 10 pilots.
- Area 7: Four pilots.
- Area 8: Seven pilots.

In authorizing the number of pilots for each pilotage area, the Director has rounded up the number of pilots required in Areas 1, 2, 4, and 5, from the above table, for Districts One and Two to insure adequate pilot availability. Furthermore, the Director has approved

two additional pilots for Area 2 for a total of six pilots to equal the number of Canadian pilots assigned to Lake Ontario. This is necessary to ensure pilotage assignments are divided equally between the United States and Canada, as specified in the Memorandum of Arrangements between the Secretary of Transportation of the United States and the Minister of Transport of Canada.

In District Three, however, the Director has rounded down the number of pilots in Area 7 (designated waters) to four and rounded down the total number of pilots required in the undesignated waters of Areas 6 and 8

(10.5 + 6.9 = 17.4) to 17 because District Three employs additional contract pilots to cover surges in vessel traffic during the navigational season.

Step 2.C: Projection of Target Pilot Compensation

Target pilot compensation for each pilotage area is determined by multiplying the target compensation for each area by the number of pilots in each area (*i.e.*, six pilots are required in Area 1, target compensation for the designated waters of Area 1 is \$173,457, 6 × \$173,457 = \$1,040,742). The results for each pilotage area are summarized below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of target pilot compensation	\$1,040,742	\$734,562	\$1,775,304

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Projection of target pilot compensation	\$612,135	\$1,214,199	\$1,826,334

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	\$1,224,270	\$693,828	\$856,989	\$2,775,087

Step 3.A: Projection of Revenue

The economic slowdown that began in 1999 has steadily precipitated a significant decline in Seaway traffic during the 2001 navigation season. The most notable sign was a downturn in consumer demand for durable goods, which caused a reduction in the flow of imported steel. This combined with a poor grain harvest in the Midwest and Canada resulted in the lowest cargo volumes on the Great Lakes since 1993.

Short-term prospects for trade are not very encouraging considering the imposition of steel tariffs of up to 30 percent in March of this year, and preliminary shipping data for the 2002 navigation season already suggests that traffic could decline further. Therefore, for the purposes of this NPRM, the Director is projecting that pilotage revenue and bridge hours for the 2003 navigation season will be comparable to those of 2001. This is being done with

the understanding that this projection will be adjusted as necessary in a final rule to account for 2002 data (revenue and bridge hour study) when they become available in late January 2003.

The Coast Guard published a final rule on July 12, 2001, that amended rates for pilotage services on the Great Lakes. That rule increased the rate in District One, Area 1 by 4 percent; increased the rate in Area 2 by 17 percent; increased the rate in District

Two, Area 4 by 3 percent; increased the rate in District Three, Area 6 by 4 percent; and increased the rate in Area 7 by 9 percent. There was a 5 percent decrease in the rate for Area 5, while the rate in Area 8 went unchanged.

As a result of a lawsuit filed by District Two, the Coast Guard published a temporary final rule on July 19, 2002. The rule returned the rate in District Two, Area 5, to the one that was in place prior to August 13, 2001. The result of this rule was a rate increase of 5 percent, which became effective August 20, 2002.

To accurately project 2003 revenues, we must adjust or "align" 2001 revenues to reflect the changes in the rates referenced above. Accordingly, the aforementioned percentage changes in pilotage rates for each pilotage area were applied (multiplied by a factor to reflect

an increase or decrease) to the total pilotage revenues in each area, collected prior to August 13, 2001 (the effective date of the rate adjustment), except for District Two, Area 5. The adjusted revenues for each area were then added to the revenues collected after August 13, 2001, in each area to obtain total adjusted revenue for each area. To account for the initial rate decrease and subsequent increase in District Two, Area 5, pilotage revenues collected after August 19, 2001, were adjusted to reflect the 5 percent increase effective August 19, 2002, (i.e., $\$782,914 \times 1.05 = \$822,060$) and then added actual area revenues collected prior to August 19, 2001, to obtain the total adjusted revenue for Area 5.

In previous rulemakings, actual revenue for each pilotage area was not available. Only total revenue for the

districts was being provided in financial statements. As a result, total revenue for each district was apportioned among pilotage areas based on the number of pilots authorized. Often this apportionment did not accurately approximate or reflect the actual revenue collected in a given pilotage area, most notably in Area 7 of District Three, where in 2001 actual revenue exceeded the apportioned amount by approximately \$450,000. In the past, this apportionment caused an inflated pilotage rate in one area and also caused deflated rates in other areas. This year, with the cooperation of the districts, we were able to account for revenue in each of their respective pilotage areas. Using actual revenues greatly enhances the equity of the rate structure. The results of Step 3.A for each district are summarized below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of revenue	\$1,105,233	\$629,149	\$1,734,382

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron MI	Total District Two
Projection of revenue	\$705,015	\$1,461,069	\$2,166,084

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Projection of revenue	\$1,540,306	\$1,119,819	\$1,030,693	\$3,690,818

Step 4: Calculation of Investment Base

In 46 CFR part 404, Appendix A, Step 5(3), it states that "Assets subject to return on investment * * * must be reasonable in purpose and amount. If an asset or other investment is not necessary for the provision of pilotage services, that portion of the return element is not allowed for ratemaking purposes." In calculating rate of return the Director considers property, equipment and cash necessary to cover pilots' associations expenses during the three-month period the St. Lawrence Seaway is closed. Some pilots' associations throughout the course of the navigation season choose to accumulate large cash balances from revenue received for pilotage service rather than distribute the money as pilot

compensation. These large cash balances are reflected on their balance sheet as cash assets at the close of the calendar year (December 31). A significant portion of these cash assets are then immediately distributed the next calendar year as pilot compensation. The net effect inflates their investment base at the end of the calendar year. The Director's inclusion of cash assets in excess of what is required to operate during this period would encourage these associations to unnecessarily inflate their investment bases and provide a source of return available to few, if any, other private businesses. An analysis of pilots' associations' investment bases indicates that, ever since the concept of return on investment was introduced into the

ratemaking methodology, Districts Two and Three have greatly increased their bases. In District Two, the base went from \$265,488 in 1995 to \$413,998 in 1996, of which only \$116,041 represented property and equipment. In District Three, it went from \$119,823 in 1995 to \$994,896 in 1996, of which only \$25,583 represented property and equipment.

In addition to property and equipment, the Director is recognizing \$100,000, \$150,000, and \$200,000 for inclusion in the investment base for Districts One, Two, and Three, respectively, as cash necessary to cover operating expenses during the months the St. Lawrence Seaway is closed.

The investment base (Step 4) as calculated for each district is displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Calculation of investment base	\$50,000	\$50,000	\$100,000

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Calculation of investment base	\$89,734	\$140,353	\$230,087

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Calculation of investment base	\$111,668	\$83,752	\$83,752	\$279,172

Step 5: Determination of Target Rate of Return

The target rate of return on investment (ROI) for 2002 was set at 7.04 percent. This is based on the preceding year's (2001's) average annual rate of return of new issues of high-grade corporate securities (Moody's AAA rating, average return).

Step 6: Adjustment Determination (Revenue Needed)

We made the adjustment determination (revenue needed to cover operating expenses and pilot compensation) using the numbers listed above and following the formula found in Step 6 of 46 CFR part 404, Appendix A. The results for each district are displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Adjustment determination	\$1,356,243	\$1,019,063	\$2,375,306

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Adjustment determination	\$925,306	\$1,712,340	\$2,637,646

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Adjustment determination	\$1,841,115	\$1,156,463	\$1,319,623	\$4,317,201

Step 7: Adjustment of Pilotage Rate

To determine the adjustments to pilotage rates in each area, we multiplied the current pilotage rate in the area by the rate multiplier. The rate multiplier is calculated by dividing the

revenue needed (from Step 6) by the revenue projection (from Step 3) for each area. The Director proposes to amend the pilotage rates for the waters treated in 46 CFR 401.405 through 46 CFR 401.410 with the rates obtained by

multiplying the current pilotage rates times the rate multiplier for each pilotage area. The Adjustments of Pilotage Rates (Step 7) for each district are displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Adjustment of pilotage rates	1.23 (23%)	1.62 (+62%)	1.37 (+37%)

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Adjustment of pilotage rates	1.31 (+31%)	1.17 (+17%)	1.22 (+22%)

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Adjustment of pilotage rate	1.20 (+20%)	1.03 (+4)	1.28 (+28%)	1.17 (+17%)

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 (February 26, 1979)).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would make adjustments to the pilotage rates paid by foreign flagged ships for the 2003 Great Lakes navigational season. While these adjustments to pilotage rates may seem relatively large they actually represent a small change to the overall cost of moving these vessels through the St. Lawrence Seaway system. The Coast Guard used the ratemaking methodology found in 46 CFR part 404, Appendix A, to identify adjustments necessary to achieve target pilot compensation and association expenses by establishing these new pilotage rates. This ratemaking methodology is designed to annually review pilotage rates in order to avoid fluctuations in pilot compensation thus avoiding large changes in pilotage rates. This notice of proposed rulemaking (NPRM) provides a step-by-step economic guide to show how the pilotage rates would be changed. The results of this proposed rulemaking are in keeping with the

Coast Guard's desire for a fair and efficient pilotage system.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the Great Lakes region, small entities potentially affected by this proposed rulemaking include shippers, ports, carriers, and shipping agents. The proposed increases in pilotage rates should not significantly affect small businesses.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in

understanding this proposed rule so that they can 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 consult Tom Lawler, Chief Economist, Great Lakes Pilotage (G-MW-1), U.S. Coast Guard, at 202-267-1241, by facsimile 202-267-4700, or by email at tlawler@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).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria in Executive Order 12612 and has determined that this proposed rule does not have implications for federalism.

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 regulatory actions not specifically required by law. 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361 (July 11, 2001)) requesting comments on how to best carry out the Order. We invite your comments on the impact this rule might have on tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34 (a), of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule is procedural in nature because it deals exclusively with adjusting pilotage rates for the Great Lakes. A

“Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation

(water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46 (mmm), 46 CFR 401.105 also issued the authority of 44 U.S.C. 3507.

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

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	\$10 per Kilometer or \$17 per mile. ¹
Each Lock Transited ...	\$219. ¹
Harbor Morage	\$718. ¹

¹ The minimum basic rate for assignment of a pilot in the St. Lawrence River is \$478, and the maximum basic rate for a through trip is \$2,102.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	\$557
Docking or Undocking	531

3. In § 401.407, revise paragraphs (a) and (b), including the footnote to Table (b), to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
Six-Hour Period	\$439	\$439
Docking or Undocking	338	338
Any Point on the Niagara River below the Black Rock Lock	N/A	862

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any Point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	\$1,156	\$682	\$1,500	\$1,156	N/A
Port Huron Change Point	12,012	12,332	1,513	1,176	837
St. Clair River	12,012	N/A	1,513	1,513	682
Detroit or Windsor or the Detroit River	1,156	1,500	682	N/A	1,513
Detroit Pilot Boat	837	1,156	N/A	N/A	1,513

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	\$336

Service	Lakes Huron and Michigan
Docking or Undocking	319

(b) Area 7 (Designated Waters):

Area	Detour	Gros cap	Any harbor
Gros Cap	\$1,479	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	1,479	\$557	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation	1,240	557	N/A
Wharf Sault Ste. Marie, MI	1,240	557	N/A
Harbor Morage	N/A	N/A	\$557

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	\$334
Docking or Undocking	319

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number “\$53” and add, in its place, the number “\$66”; and remove the number “\$831” and add, in its place, the number “\$1,039”.

b. In paragraph (b), remove the number “\$53” and add, in its place, the number “\$66”; and remove the number “\$831” and add, in its place, the number “\$1,039”.

c. In paragraph (c)(1), remove the number “\$314” and add, in its place, the number “\$392”; in paragraph (c)(3), remove the number “\$53” and add, in its place, the number “\$66”; and, also in paragraph (c)(3), remove the number “\$831” and add, in its place, the number “\$1,039”.

§ 401.428 [Amended]

6. In § 401.428, remove the number “\$321” and add, in its place, the number “\$401”.

Dated: December 20, 2002.

Paul J. Pluta,

Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03-1461 Filed 1-17-03; 2:01 pm]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94-102; IB Docket No. 99-67; FCC 02-326]

Basic and Enhanced 911 Provision by Currently Exempt Wireless and Wireline Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates a reevaluation of the scope of communications services that should provide access to basic and enhanced emergency services. The action is needed to establish a record on which to decide whether remains appropriate to continue to exempt certain wireless and wireline service providers from 911 and Enhanced 911 (E911) regulations and requirements.

DATES: Comments are due on or before February 3, 2003. Reply Comments are due on or before February 28, 2003.

FOR FURTHER INFORMATION CONTACT:

Gregory W. Guice, Attorney Advisor, Policy Division, (202) 418-0095; David Siehl, Attorney Advisor, Policy Division, (202) 418-1313; Arthur Lechtman, Attorney Advisor, Policy Branch, (202) 418-1465.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, (FNPRM) released December 20, 2002 (FCC 02-326). The full text of the FNPRM available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor. Copies may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. Additionally, the complete item is available on the Commission's Web site at <http://www.fcc.gov/wtb>.

Synopsis of the FNPRM

1. In this FNPRM, the Commission seeks comment on whether providers of various services and devices not currently within the scope of the Commission's 911 rules should, consistent with the public interest, be