



This document is scheduled to be published in the Federal Register on 08/30/2022 and available online at [federalregister.gov/d/2022-18690](https://www.federalregister.gov/d/2022-18690), and on [govinfo.gov](https://www.govinfo.gov)

9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG-2022-0370]

RIN 1625-AC82

Great Lakes Pilotage Rates – 2023 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with the statutory provisions enacted by the Great Lakes Pilotage Act of 1960, the Coast Guard is proposing new base pilotage rates for the 2023 shipping season. The Coast Guard estimates that this proposed rule would result in an approximately 14-percent increase in operating costs compared to the 2022 season. Additionally, in accordance with the requirement to conduct a full ratemaking every 5 years, the Coast Guard is accepting comments on the Great Lakes pilotage ratemaking methodology. We are also accepting suggestions for changes to the staffing model, for consideration in a future ratemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2022-0370 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Brian Rogers, Commandant, Office of Waterways and Ocean Policy –

Great Lakes Pilotage Division (CG-WWM-2), Coast Guard; telephone 202-372-1535,
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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-1625-AC82 in the search box and click “Search.” Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following

instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see the Department of Homeland Security's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public meeting. We do not plan to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notification to announce the date, time, and location of such a meeting.

II. Abbreviations

AMOU	American Maritime Officers Union
APA	American Pilots' Association
BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
CPA	Certified public accountant
CPI	Consumer Price Index
DHS	Department of Homeland Security
Director	U.S. Coast Guard's Director of the Great Lakes Pilotage
ECI	Employment Cost Index
FOMC	Federal Open Market Committee
FR	Federal Register
GLPA	Great Lakes Pilotage Authority (Canadian)
GLPAC	Great Lakes Pilotage Advisory Committee
GLPMS	Great Lakes Pilotage Management System
LPA	Lakes Pilots Association
NAICS	North American Industry Classification System
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
PCE	Personal Consumption Expenditures
§	Section
SBA	Small Business Administration
SLSPA	Saint Lawrence Seaway Pilotage Association
U.S.C.	United States Code
WGLPA	Western Great Lakes Pilots Association

III. Executive Summary

In accordance with Title 46 of the United States Code (U.S.C.), Chapter 93,¹ the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes and St. Lawrence Seaway — including setting the rates for pilotage services and adjusting them on an annual basis for the upcoming shipping season. The shipping season begins when the locks open in the St. Lawrence Seaway, which allows traffic access to and from the Atlantic Ocean. The opening of the locks varies annually, depending on waterway conditions, but is generally in March or April. The rates, which for the 2023 season range from a proposed \$407 to \$867 per pilot hour (depending on which of the specific six areas pilotage service is provided), are paid by shippers to the pilot associations. The three pilot associations, which are the exclusive U.S. source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate apprentice and registered pilots, acquire and implement technological advances, train new personnel, and allow partners to participate in professional development.

In accordance with statutory and regulatory requirements, we have employed the ratemaking methodology we introduced in 2016. Our ratemaking methodology calculates the revenue needed for each pilotage association (operating expenses, compensation for the number of pilots, and anticipated inflation), and then divides that amount by the expected demand for pilotage services over the course of the coming year, to produce an hourly rate. This is a 10-step methodology to calculate rates. The 10-step methodology is explained in section VI of this preamble.

In this notice of proposed rulemaking (NPRM), we are proposing a full ratemaking, setting new pilotage rates for 2023 based on the 10-step ratemaking

¹ 46 U.S.C. 9301-9308.

methodology, and accepting comments on the methodology. We conducted the last full ratemaking 5 years ago, in 2018. Per title 46 of the Code of Federal Regulations (CFR), § 404.100(a), in this NPRM, the Coast Guard’s Director of the Great Lakes Pilotage (“the Director”) proposes to establish base pilotage rates by a full ratemaking pursuant to §§ 404.101 through 404.110. Base rates would be set to meet the goals of promoting safe, efficient, and reliable pilotage service on the Great Lakes, by generating sufficient revenue for each pilotage association to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide appropriate funds to use for improvements. We use a 10-year average when calculating traffic to smooth out variations in traffic caused by global economic conditions, such as those caused by the COVID-19 pandemic. The Coast Guard estimates that this proposed rule would result in \$4,535,400 in additional costs.

Based on the ratemaking model discussed in this NPRM, we are proposing the rates shown in table 1.

Table 1 — Current and Proposed Pilotage Rates on the Great Lakes

Area	Name	Final 2022 pilotage rate	Proposed 2023 pilotage rate
District One: Designated	St. Lawrence River	\$834	\$867
District One: Undesignated	Lake Ontario	\$568	\$581
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI	\$536	\$606
District Two: Undesignated	Lake Erie	\$610	\$652
District Three: Designated	St. Mary’s River	\$662	\$818

District Three: Undesignated	Lakes Huron, Michigan, and Superior	\$342	\$407
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This proposed rule would affect 55 U.S. Great Lakes pilots, 7 apprentice pilots, 3 pilot associations, and the owners and operators of an average of 285 oceangoing vessels that transit the Great Lakes annually. This proposed rule is not economically significant under Executive Order 12866 and would not affect the Coast Guard’s budget or increase Federal spending. The estimated overall annual regulatory economic impact of this rate change would be a net increase of \$4,535,400 in estimated payments made by shippers during the 2023 shipping season. This NPRM establishes the 2023 yearly compensation for pilots on the Great Lakes at \$422,336 per pilot (a \$23,070 increase, or 5.78 percent, over their 2022 compensation). Because the Coast Guard must review, and, if necessary, adjust rates each year, we analyze these as single-year costs and do not annualize them over 10 years. Section X of this preamble provides the regulatory impact analyses of this proposed rule.

IV. Basis and Purpose

The legal basis of this rulemaking is 46 U.S.C. Chapter 93,² which requires foreign merchant vessels and United States vessels operating “on register” (meaning United States vessels engaged in foreign trade) to use United States or Canadian pilots while transiting the United States waters of the St. Lawrence Seaway and the Great Lakes system.³ For U.S. Great Lakes pilots, the statute requires the Secretary of Homeland Security to “prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.”⁴ The statute requires that rates be established or reviewed and adjusted each year, not later than March

² 46 U.S.C. 9301-9308.

³ 46 U.S.C. 9302(a)(1).

⁴ 46 U.S.C. 9303(f).

1.⁵ The statute also requires that base rates be established by a full ratemaking at least once every 5 years, and, in years when base rates are not established, they must be reviewed and, if necessary, adjusted.⁶ The Secretary's duties and authority under 46 U.S.C. Chapter 93 have been delegated to the Coast Guard.⁷

The purpose of this rule is to issue new pilotage rates for the 2023 shipping season. The Coast Guard believes that the new rates will continue to promote our goal, as outlined in 46 CFR 404.1, of promoting safe, efficient, and reliable pilotage service in the Great Lakes by generating for each pilotage association sufficient revenue to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide appropriate funds to use for improvements.

V. Background

Pursuant to 46 U.S.C. 9303, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority (GLPA), regulates shipping practices and rates on the Great Lakes. Under Coast Guard regulations, all vessels engaged in foreign trade (often referred to as "salties") are required to engage United States or Canadian pilots during their transit through the regulated waters.⁸ United States and Canadian "lakers," which account for most commercial shipping on the Great Lakes, are not affected.⁹ Generally, vessels are assigned a United States or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes, and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services. The GLPA establishes the rates for Canadian registered pilots.

⁵ *Id.*

⁶ *Id.*

⁷ Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(f).

⁸ See 46 CFR part 401.

⁹ 46 U.S.C. 9302(f). A "laker" is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Director to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association (SLSPA) provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilots Association (LPA) provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilots Association (WGLPA) provides pilotage services in District Three, which includes all U.S. waters of the St. Marys River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into “designated” and “undesignated” areas, depicted in table 2 below. Designated areas, classified as such by Presidential Proclamation, are waters in which pilots must direct the navigation of vessels at all times.¹⁰ Undesignated areas, on the other hand, are open bodies of water not subject to the same pilotage requirements. While working in undesignated areas, pilots must “be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.”¹¹ For these reasons, pilotage rates in designated areas can be significantly higher than those in undesignated areas.

Table 2 — Areas of the Great Lakes and St. Lawrence Seaway

District	Pilotage Association	Designation	Area Number¹²	Area Name¹³
One	Saint Lawrence Seaway Pilotage Association	Designated	1	St. Lawrence River
		Undesignated	2	Lake Ontario
Two	Lakes Pilots Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI

¹⁰ Presidential Proclamation 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960*, December 22, 1960.

¹¹ 46 U.S.C. 9302(a)(1)(B).

¹² Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the United States pilotage rate structure.

¹³ The areas are listed by name at 46 CFR 401.405.

		Undesignated	4	Lake Erie
Three	Western Great Lakes Pilots Association	Designated	7	St. Marys River
		Undesignated	6	Lakes Huron and Michigan
		Undesignated	8	Lake Superior

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot association is responsible for funding its own operating expenses, maintaining infrastructure, compensating pilots and apprentice pilots¹⁴, acquiring and implementing technological advances, and training personnel and partners. The Coast Guard uses a 10-step ratemaking methodology to derive a pilotage rate, based on the estimated amount of traffic, which covers these expenses.¹⁵ The methodology is designed to measure how much revenue each pilotage association would need to cover expenses and provide competitive compensation goals to registered pilots. Since the Coast Guard cannot guarantee demand for pilotage services, target pilot compensation for registered pilots is a goal. The actual demand for service dictates the actual compensation for the registered pilots. We then divide that amount by the historic 10-year average for pilotage demand. We recognize that, in years where traffic is above average, pilot associations will accrue more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours, with adequate rest between assignments, to ensure retention of highly trained personnel.

Over the past several years, the Coast Guard has adjusted the Great Lakes pilotage ratemaking methodology per our authority in 46 U.S.C. 9303(f) to conduct annual reviews of base pilotage rates and adjust such base rates in each intervening year in

¹⁴ Apprentice pilots and applicant pilots are compensated by the pilot association they are training with, which is funded through the pilotage rates. The ratemaking methodology accounts for an apprentice pilot wage benchmark in Step 4 per 46 CFR 404.104(d). The applicant pilot salaries are included in the pilot associations' operating expenses used in Step 1 per 46 CFR 404.101.

¹⁵ 46 CFR part 404.

consideration of the public interest and the costs of providing the services. The current methodology was finalized in the Great Lakes Pilotage Rates – 2022 Annual Review and Revisions to Methodology final rule (87 FR 18488, March 30, 2022). We summarize the current and proposed methodology in the section below.

VI. Summary of the Ratemaking Methodology

As stated above, the ratemaking methodology, outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate, determined separately for each of the areas administered by the Coast Guard.

In Step 1, “Recognize previous operating expenses,” (§ 404.101) the Director reviews audited operating expenses from each of the three pilotage associations. Operating expenses include all allowable expenses minus wages and benefits. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. Therefore, in calculating the 2023 rates in this proposal, we begin with the audited expenses from the 2020 shipping season.

While each pilotage association operates in an entire district (including both designated and undesignated areas), the Coast Guard determines costs by area. With regard to operating expenses, we allocate certain operating expenses to designated areas and certain operating expenses to undesignated areas. In some cases, we can allocate the costs based on where they are actually accrued. For example, we can allocate the costs for insurance for apprentice pilots who operate in undesignated areas only. In other situations, such as general legal expenses, expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecasted from the respective portions of the district.

In Step 2, “Project operating expenses, adjusting for inflation or deflation,” (§ 404.102) the Director develops the 2023 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors are from the Bureau of Labor Statistics’ (BLS) Consumer Price Index (CPI) for the Midwest Region, or, if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

In Step 3, “Estimate number of registered pilots and apprentice pilots,” (§ 404.103) the Director calculates how many registered and apprentice pilots, including apprentice pilots with limited registration, are needed for each district. To do this, we employ a “staffing model,” described in § 401.220, paragraphs (a)(1) through (3), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director in approving an appropriate number of pilots.

For the purpose of the ratemaking calculation, we determine the number of pilots provided by the pilotage associations (see § 404.103) and use that figure to determine how many pilots need to be compensated via the pilotage fees collected.

In the first part of Step 4, “Determine target pilot compensation benchmark and apprentice pilot wage benchmark,” (§ 404.104) the Director determines the revenue needed for pilot compensation in each area and district and calculates the total compensation for each pilot using a “compensation benchmark.”

In the second part of Step 4, set forth in § 404.104(c), the Director determines the total compensation figure for each district. To do this, the Director multiplies the compensation benchmark by the number of pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

In Step 5, "Project working capital fund," (§ 404.105) the Director calculates a value that is added to pay for needed capital improvements and other non-recurring expenses, such as technology investments and infrastructure maintenance. This value is calculated by adding the total operating expenses (derived in Step 2) to the total pilot compensation and total target apprentice pilot wage (derived in Step 4) and multiplying that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the "working capital fund" for each area and district.

In Step 6, "Project needed revenue," (§ 404.106) the Director simply adds up the totals produced by the preceding steps. The projected operating expense for each area and district (from Step 2) is added to the total pilot compensation, including apprentice pilot wage benchmarks, (from Step 4) and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the "needed revenue."

In Step 7, "Calculate initial base rates," (§ 404.107) the Director calculates an hourly pilotage rate to cover the needed revenue as calculated in Step 6. This step consists of first calculating the 10-year hours of traffic average for each area. Next, we divide the revenue needed in each area (calculated in Step 6) by the 10-year hours of traffic average to produce an initial base rate.

An additional element, the "weighting factor," is required under § 401.400. Pursuant to that section, ships pay a multiple of the "base rate" as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or "Class I" vessels) to 1.45 (for the largest ships, or "Class IV" vessels). As this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services. We do this in the next step.

In Step 8, “Calculate average weighting factors by Area,” (§ 404.108) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of the applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, “Calculate revised base rates,” (§ 404.109) the Director modifies the base rates by accounting for the extra revenue generated by the weighting factors. We do this by dividing the initial pilotage rate for each area (from Step 7) by the corresponding average weighting factor (from Step 8), to produce a revised rate.

In Step 10, “Review and finalize rates,” (§ 404.110) often referred to informally as “Director’s discretion,” the Director reviews the revised base rates (from Step 9) to ensure that they meet the goals set forth in 46 U.S.C. 9303(f) and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating trained and rested pilots fairly; and providing appropriate revenue for improvements.

After the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. We are not proposing to use any surcharges in this ratemaking. In previous ratemakings where apprentice pilot wages were not built into the rate, the Coast Guard used surcharges to cover applicant pilot compensation in those years to help with applicant recruitment. In this ratemaking, we include the applicant trainee compensation in the district’s operating expenses used in step 1 of the ratemaking. Consistent with the 2021 and 2022 rulemakings, we continue to believe that the pilot associations are now able to plan for the costs associated with hiring applicant pilots to fill pilot vacancies without relying on the Coast Guard to impose surcharges to help with recruiting.

VII. Discussion of Proposed Methodological and Other Changes

The Coast Guard is proposing to use the existing ratemaking methodology for establishing the base rates in this full ratemaking. The Coast Guard is not proposing any methodological or other policy changes to the ratemaking within this NPRM. However, we are accepting comments on the entire ratemaking methodology and staffing model as part of our full ratemaking year.

According to 46 U.S.C. 9303(f), and restated in § 404.100(a), the Coast Guard must establish base rates by a full ratemaking at least once every 5 years. We have determined that the current base rate and methodology still adequately adheres to the Coast Guard's goals of safety through rate and compensation stability, while promoting recruitment and retention of qualified U.S. registered pilots. The Coast Guard has made several changes to the ratemaking over the last several ratemakings in consideration of the public interest and costs of providing services. The recent changes and their impacts are summarized as follows.

In the 2017 ratemaking (82 FR 41466, August 31, 2017), we modified the ratemaking methodology to account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 for each district, in section IX of this preamble). In the 2018 ratemaking (83 FR 26162, June 5, 2018), we adopted a new approach in the methodology for the compensation benchmark, based upon United States mariners rather than Canadian working pilots. In the 2020 ratemaking (85 FR 20088, April 9, 2020), we revised the methodology to accurately capture all costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately and accurately compensates pilots and covers expenses. The 2021 ratemaking (86 FR 14184, March 12, 2021) changed the inflation calculation in Step 4, § 404.104(b) for interim ratemakings, so that the previous year's target compensation value is first adjusted by actual inflation value using the Employment Cost Index (ECI). That change ensures that the target pilot compensation

reimbursed to the association remains current with inflation and competitive with industry pay increases. The 2022 ratemaking (87 FR 18488, March 30, 2022) implemented an apprentice pilot wage benchmark in Steps 3 and 4 to provide predictability and stability to associations training apprentice pilots. The 2022 final rule also codified rounding up the staffing model's final number to ensure the ratemaking does not undercount the pilot need presented by the staffing model and association circumstances.

These refinements to the methodology continue to promote safe, efficient, and reliable pilotage service on the Great Lakes, and allows each pilotage association to generate sufficient revenue to cover its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and realize an appropriate revenue to use for improvements. While the Coast Guard is not proposing changes at this time, we welcome public comments and suggestions on the methodology.

The Coast Guard is requesting input on the staffing model due to the diversification of traffic and increased demand for pilotage services, for consideration in a future rulemaking. The annual Great Lakes Pilotage Advisory Committee (GLPAC) meeting of September 1, 2021, produced a recommendation for the Coast Guard to review the staffing model. A copy of the GLPAC September 1, 2021, meeting transcript is available in the docket, where indicated under the **Public Participation and Request for Comments** portion of the preamble (section I). The recommendation is on page 53 of the transcript. We are interested in the public's suggestions on what changes may improve the staffing model to accurately capture staffing demand. We would consider the comments and determine any changes to propose in a future ratemaking.

VIII. Individual Target Pilot Compensation Benchmark

The Coast Guard is proposing to set the target pilot compensation benchmark in this ratemaking at the target compensation for the ratemaking year 2022, adjusted for

inflation. In a full ratemaking year, per 46 CFR 404.104(a), the Director determines a base individual target pilot compensation using a compensation benchmark in consideration of relevant currently available non-proprietary information. The Director may make necessary and reasonable adjustments to the benchmark if circumstances require. The compensation benchmark would be used in Step 4 of the existing methodology. In the following interim year ratemakings, the base target pilot compensation would be inflated annually in accordance with § 404.104(b). We discuss how we arrived at this proposed compensation benchmark next.

Prior to 2016, the Coast Guard based the compensation benchmark on data provided by the American Maritime Officers Union (AMOU) regarding its contract for first mates on the Great Lakes. However, in 2016 the AMOU elected to no longer provide this data to the Coast Guard. In the 2016 ratemaking (81 FR 11908, March 7, 2016), we used average compensation for a Canadian pilot plus a 10-percent adjustment. The shipping industry challenged the compensation benchmark, and the court found that the Coast Guard did not adequately support the 10-percent addition to the Canadian GLPA compensation benchmark. *American Great Lakes Ports Association v. Zukunft*, 296 F.Supp. 3d 27 (D.D.C. 2017). The Coast Guard then based the 2018 full ratemaking compensation benchmark on data provided by the AMOU regarding its contract for first mates on the Great Lakes in the 2011 to 2015 period (83 FR 26162, June 5, 2018). The 2018 final rule adjusted the AMOU 2015 data for inflation using FOMC median economic projections for PCE inflation.

In the 2020 interim year ratemaking final rule, the Coast Guard established its most recent pilot compensation benchmark. Given the lack of access to AMOU data, we did not rely on the AMOU aggregated wage and benefit information as the basis for the compensation benchmark, and instead adopted the 2019 target pilot compensation (with inflation) as our compensation benchmark going forward. We stated in the 2020 final

rule that no other United States or Canadian pilot compensation data was appropriate to use as a benchmark at that time. *See* 85 FR 20091. The Director determined that the ratemaking provided adequate compensation for pilots. In the 2020 ratemaking, we announced we would use the 2020 benchmark for future rates. *See* 85 FR 20091.

Based on our experience over the past three ratemakings (2020-2022), the Director continues to believe that the level of target pilot compensation for those years provided an appropriate level of compensation for U.S. Registered pilots. According to § 401.101(a), the Director may make necessary and reasonable adjustments to the benchmark based on current information. However, current circumstances do not indicate that an adjustment, other than for inflation, is necessary. The Director bases this decision on the fact that there is no indication that registered pilots are resigning due to their compensation or that this compensation benchmark is causing shortfalls in achieving reliable pilotage. We also do not believe that the pilot compensation benchmark is too high relative to the expertise required to perform the job. The compensation would continue to be adjusted annually in accordance with published inflation rates, which would ensure the compensation remains competitive and current for upcoming years.

Therefore, the Coast Guard proposes to not seek alternative benchmarks for target compensation at this time and, instead, to simply adjust the amount of target pilot compensation for inflation as our target compensation benchmark for 2023, as shown in Step 4. This target compensation benchmark approach has advanced and will continue to advance the Coast Guard's goals of safety through rate and compensation stability while also promoting recruitment and retention of qualified U.S. pilots.

The proposed compensation benchmark for 2023 is \$399,266 per registered pilot, and \$143,736 per apprentice pilot, using the 2022 compensation as a benchmark. We then follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the

existing compensation benchmark for inflation. We are using a two-step process to adjust target pilot compensation for inflation. First, we adjust the 2022 target compensation benchmark of \$399,266 by 3.4 percent for an adjusted value of \$412,841. This first adjustment accounts for the difference in actual first quarter 2022 ECI inflation, which is 5.6 percent, and the 2022 PCE estimate of 2.2 percent.^{16,17} The second step accounts for projected inflation from 2022 to 2023, which is 2.3 percent.¹⁸ Based on the projected 2023 inflation estimate, the proposed target compensation benchmark for 2023 is \$422,336 per pilot. The proposed apprentice pilot wage benchmark is 36 percent of the target pilot compensation, or \$152,041 ($\$422,336 \times 0.36$).

IX. Discussion of Proposed Rate Adjustments

In this NPRM, based on the proposed policy changes described in the previous section, we are proposing new pilotage rates for 2023. We propose to conduct the 2023 ratemaking as a full ratemaking, as we last did in 2018 (83 FR 26162). Thus, the Coast Guard proposes to adjust the compensation benchmark following the full ratemaking year procedures under § 404.100(a) rather than the procedures for an interim ratemaking year in § 404.100(b).

This section discusses the proposed rate changes using the ratemaking steps provided in 46 CFR part 404. We will detail all 10 steps of the ratemaking procedure for each of the 3 districts to show how we arrive at the proposed new rates.

District One

A. Step 1: Recognize Previous Operating Expenses

¹⁶ Employment Cost Index, Total Compensation for Private Industry workers in Transportation and Material Moving, Annual Average, Series ID: CIU2010000520000A. Accessed April 29, 2022. <https://www.bls.gov/news.release/eci.t05.htm>

¹⁷ Table 1 Summary of Economic Projections, PCE Inflation September Projection. Accessed December, 2021 <https://www.federalreserve.gov/monetarypolicy/files/fomcprojt20211215.pdf>

¹⁸ Table 1 Summary of Economic Projections, PCE Inflation December Projection. Accessed March 2022 <https://www.federalreserve.gov/monetarypolicy/files/fomcprojt20220316.pdf>

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2020 expenses and revenues.¹⁹ For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District One are shown in table 3.

Adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking, where indicated under the **Public Participation and Request for Comments** portion of the preamble.

In the 2020 expenses used as the basis for this rulemaking, districts used the term "applicant" to describe applicant trainees and persons who would be called apprentices (applicant pilots) under the definition of "Apprentice pilot" introduced in the 2022 final rule. Therefore, when describing past expenses, we use the term "applicant" to match what was reported from 2020, which includes both applicant and apprentice pilots. We use "apprentice" to distinguish apprentice pilot wages and describe the impacts of the ratemaking going forward.

We continue to include applicant salaries as an allowable expense in the 2023 ratemaking, as it is based on 2020 operating expenses, when salaries were still an allowable expense. The apprentice salaries paid in the years 2020 and 2021 have not been reimbursed in the ratemaking as of publication of this proposed rule. Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021, where the wages for apprentice pilots were still authorized as

¹⁹ These reports are available in the docket for this rulemaking.

operating expenses. Beginning with the 2025 ratemaking, apprentice pilot salaries will no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022 rates. Beginning in 2025, the applicant salaries' operating expenses for 2022 will consist of only applicant trainees (those who are not yet apprentice pilots).

Table 3 — 2020 Recognized Expenses for District One

	District One		Total
	Designated	Undesignated	
Reported Operating Expenses for 2020	St. Lawrence River	Lake Ontario	
<i>Applicant Pilot Compensation</i>			
Salaries	\$257,250	\$171,500	\$428,750
Employee Benefits	\$13,633	\$9,089	\$22,722
Applicant Subsistence/Travel	\$14,901	\$9,934	\$24,835
Applicant License Insurance	\$1,771	\$1,181	\$2,952
Applicant Payroll Tax	\$20,823	\$13,882	\$34,705
Total Applicant Pilot Compensation	\$308,378	\$205,586	\$513,964
<i>Other Pilot Cost</i>			
Subsistence/Travel- Pilot	\$575,475	\$383,650	\$959,125
Hotel/Lodging Cost	\$32,802	\$21,868	\$54,671
License Insurance- Pilots	\$45,859	\$30,573	\$76,432
Payroll Taxes- Pilots	\$188,318	\$125,546	\$313,864
Other	\$26,433	\$17,621	\$44,054
Total other pilotage costs	\$868,887	\$579,258	\$1,448,145
<i>Pilot Boat and Dispatch Costs</i>			
Pilot Boat Expense (Operating)	\$325,904	\$217,269	\$543,173
Pilot Boat Cost (D1-20-01)	\$104,658	\$69,772	\$174,430
Dispatch Expense	\$139,916	\$93,277	\$233,193
Payroll Taxes	\$22,930	\$15,287	\$38,217
Total Pilot and Dispatch Costs	\$593,408	\$395,605	\$989,013
<i>Administrative Expenses</i>			
Legal- General Counsel	\$3,124	\$2,083	\$5,207
Legal- Shared Counsel (K&L Gates)	\$62,906	\$41,937	\$104,843
Legal- USCG Litigation	\$8,793	\$5,862	\$14,655
Insurance	\$35,040	\$23,360	\$58,400
Employee Benefits	\$5,541	\$3,694	\$9,235
Payroll Taxes	\$6,511	\$4,341	\$10,852
Other Taxes	\$69,000	\$46,000	\$115,000

Real Estate Taxes	\$23,298	\$15,532	\$38,830
Travel	\$21,516	\$14,344	\$35,860
Depreciation	\$152,071	\$101,381	\$253,452
Certified Public Accountant (CPA) Deduction (D1-19-01)	\$ (44,623)	\$ (29,748)	\$ (74,371)
Interest	\$36,924	\$24,616	\$61,540
CPA Deduction (D1-19-01)	\$ (18,710)	\$ (12,473)	\$ (31,183)
American Pilots' Association (APA) Dues	\$27,172	\$18,115	\$45,287
Dues and Subscriptions	\$4,080	\$2,720	\$6,800
Utilities	\$15,618	\$10,412	\$26,030
Salaries	\$69,848	\$46,565	\$116,413
Accounting/Professional Fees	\$8,220	\$5,480	\$13,700
Other	\$55,213	\$36,809	\$92,022
<i>Applicant Administrative Expense</i>			\$-
Pilot Training	\$26,787	\$17,858	\$44,645
Supplies	\$481	\$320	\$801
Total Administrative Expenses	\$568,810	\$379,208	\$948,018
Total Expenses (OpEx + Applicant + Pilot Boats + Admin + Capital)	\$2,339,483	\$1,559,657	\$3,899,140
<i>Director's Adjustments - Applicant Surcharge Collected</i>	<i>\$(10,814)</i>	<i>\$(7,209)</i>	<i>\$(18,024)</i>
<i>Director's Adjustments - Applicant Salaries</i>	<i>\$(19,379)</i>	<i>\$(12,919)</i>	<i>\$(32,298)</i>
Total Director's Adjustments	\$(30,193)	\$ (20,129)	\$(50,322)
Total Operating Expenses (OpEx + Adjustments)	\$2,309,290	\$1,539,528	\$3,848,818

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2020 operating expenses in Step 1, the next step is to estimate the current year’s operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2021 inflation rate.²⁰ Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2022 and 2023 inflation modification.²¹ Based on that information, the calculations for Step 2 are as follows:

Table 4 — Adjusted Operating Expenses for District One

	District One		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	\$2,309,290	\$1,539,528	\$3,848,818
2021 Inflation Modification (@5.1%)	\$117,774	\$78,516	\$196,290
2022 Inflation Modification (@2.7033%)	\$65,531	\$43,687	\$109,218
2023 Inflation Modification (@2.3%)	\$57,330	\$38,220	\$95,550
Adjusted 2023 Operating Expenses	\$2,549,925	\$1,699,951	\$4,249,876

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.103, we estimate the number of fully registered pilots in each district. We determine the number of fully registered pilots based on data provided by the SLSPA. Using these numbers, we estimate that there will be 18 registered pilots in 2023 in District One. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs.

²⁰ The 2021 inflation rate is available at <https://data.bls.gov/pdq/SurveyOutputServlet>. Specifically, the CPI is defined as “All Urban Consumers (CPI-U), All Items, 1982-4=100.” Series CUUS0200SAO (Downloaded March 2022)

²¹ The 2022 and 2023 inflation rates are available at <https://www.federalreserve.gov/monetarypolicy/files/fomcprojt20220316.pdf>. We used the PCE median inflation value found in table 1. (Downloaded March 2022)

Using these numbers, we estimate that there will be two apprentice pilots in 2023 in District One. Based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 5. These numbers are used to determine the amount of revenue needed in their respective areas.

Table 5 — Authorized Pilots for District One

Item	District One
Proposed Maximum Number of Pilots (per § 401.220(a)) *	18
2023 Authorized Pilots (total)	18
Pilots Assigned to Designated Areas	10
Pilots Assigned to Undesignated Areas	8
2023 Apprentice Pilots	2

* For a detailed calculation, refer to the Great Lakes Pilotage Rates – 2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice

Pilot Wage Benchmark

In this step, we determine the total pilot compensation for each area. Because we are proposing a full ratemaking this year, we propose to follow the procedure outlined in paragraph (a) of § 404.104, which requires us to develop a benchmark after considering the most relevant currently available non-proprietary information. In accordance with the discussion in Section VII of this preamble, the proposed compensation benchmark for 2023 uses the 2022 compensation of \$399,266 per registered pilot as a base, then adjusts for inflation following the procedure outlined in paragraph (b) of § 404.104. The proposed target pilot compensation for 2023 is \$422,336 per pilot. The proposed apprentice pilot wage benchmark is 36 percent of the target pilot compensation, or \$152,041 ($\$422,336 \times 0.36$).

Next, we certify that the number of pilots estimated for 2022 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 18 pilots for District One, which is less than or equal to 18, the number of registered pilots provided by the pilot association. In

accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of registered pilots for District One, as shown in table 6. We estimate that the number of apprentice pilots with limited registration needed will be two for District One in the 2023 season. The total target wages for apprentices are allocated with 60 percent for the designated area, and 40 percent for the undesignated area, in accordance with the allocation for operating expenses.

Table 6 — Target Compensation for District One

	District One		
	Designated	Undesignated	Total
Target Pilot Compensation	\$422,336	\$422,336	\$422,336
Number of Pilots	10	8	18
Total Target Pilot Compensation	\$4,223,360	\$3,378,688	\$7,602,048
Target Apprentice Pilot Compensation	\$152,041	\$152,041	\$152,041
Number of Apprentice Pilots			2
Total Target Apprentice Pilot Compensation	\$182,449.00	\$121,632.92	\$304,082

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wage for each area. Next, we find the preceding year’s average annual rate of return for new issues of high-grade corporate securities. Using Moody’s data, the number is 2.7033 percent.²² By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 7.

Table 7 — Working Capital Fund Calculation for District One

	District One		
	Designated	Undesignated	Total

²² Moody’s Seasoned Aaa Corporate Bond Yield, average of 2021 monthly data. The Coast Guard uses the most recent year of complete data. Moody’s is taken from Moody’s Investors Service, which is a bond credit rating business of Moody’s Corporation. Bond ratings are based on creditworthiness and risk. The rating of “Aaa” is the highest bond rating assigned with the lowest credit risk. See <https://fred.stlouisfed.org/series/AAA>. (Downloaded March, 2022)

Adjusted Operating Expenses (Step 2)	\$2,549,925	\$1,699,951	\$4,249,876
Total Target Pilot Compensation (Step 4)	\$4,223,360	\$3,378,688	\$7,602,048
Total Target Apprentice Pilot Compensation (Step 4)	\$182,449	\$121,633	\$304,082
Total 2023 Expenses	\$6,955,734	\$5,200,272	\$12,156,006
Working Capital Fund (2.7033%)	\$188,037	\$140,581	\$328,618

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), total target apprentice pilot wage, (from Step 4) and the working capital fund contribution (from Step 5). We show these calculations in table 8.

Table 8 — Revenue Needed for District One

	District One		
	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	\$2,549,925	\$1,699,951	\$4,249,876
Total Target Pilot Compensation (Step 4)	\$4,223,360	\$3,378,688	\$7,602,048
Total Target Apprentice Pilot Compensation (Step 4)	\$182,449	\$121,633	\$304,082
Working Capital Fund (Step 5)	\$188,037	\$140,581	\$328,618
Total Revenue Needed	\$7,143,771	\$5,340,853	\$12,484,624

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District One, using the total time on task or pilot bridge hours. To calculate the time on task for each district, the Coast Guard uses billing data from the Great Lakes Pilotage Management System (GLPMS). We pull the data from the system filtering by district, year, job status (we only include closed jobs), and flagging code (we only include U.S. jobs). Because we calculate separate figures for designated and undesignated waters,

there are two parts for each calculation. We show these values in table 9.

Table 9 — Time on Task for District One (Hours)

Year	District One	
	Designated	Undesignated
2021	6,188	7,871
2020	6,265	7,560
2019	8,232	8,405
2018	6,943	8,445
2017	7,605	8,679
2016	5,434	6,217
2015	5,743	6,667
2014	6,810	6,853
2013	5,864	5,529
2012	4,771	5,121
Average	6,386	7,135

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. We present the calculations for District One in table 10.

Table 10 — Initial Rate Calculations for District One

	Designated	Undesignated
Revenue needed (Step 6)	\$7,143,771	\$5,340,853
Average time on task (hours)	6,386	7,135
Initial rate	\$1,119	\$749

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 11 and 12.

Table 11 — Average Weighting Factor for District One, Designated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41

Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 1 (2018)	54	1	54
Class 1 (2019)	72	1	72
Class 1 (2020)	8	1	8
Class 1 (2021)	10	1	10
Class 2 (2014)	285	1.15	328
Class 2 (2015)	295	1.15	339
Class 2 (2016)	185	1.15	213
Class 2 (2017)	352	1.15	405
Class 2 (2018)	559	1.15	643
Class 2 (2019)	378	1.15	435
Class 2 (2020)	560	1.15	644
Class 2 (2021)	315	1.15	362
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87
Class 3 (2018)	86	1.3	112
Class 3 (2019)	122	1.3	159
Class 3 (2020)	67	1.3	87
Class 3 (2021)	52	1.3	68
Class 4 (2014)	271	1.45	393
Class 4 (2015)	251	1.45	364
Class 4 (2016)	214	1.45	310
Class 4 (2017)	285	1.45	413
Class 4 (2018)	393	1.45	570
Class 4 (2019)	730	1.45	1059
Class 4 (2020)	427	1.45	619
Class 4 (2021)	407	1.45	590
Total	6,704		8,640
Average weighting factor (weighted transits ÷ number of transits)		1.29	

Table 12 — Average Weighting Factor for District One, Undesignated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 1 (2018)	22	1	22
Class 1 (2019)	30	1	30

Class 1 (2020)	3	1	3
Class 1 (2021)	19	1	19
Class 2 (2014)	238	1.15	274
Class 2 (2015)	263	1.15	302
Class 2 (2016)	169	1.15	194
Class 2 (2017)	290	1.15	334
Class 2 (2018)	352	1.15	405
Class 2 (2019)	366	1.15	421
Class 2 (2020)	358	1.15	412
Class 2 (2021)	463	1.15	532
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	55
Class 3 (2016)	28	1.3	36
Class 3 (2017)	45	1.3	59
Class 3 (2018)	63	1.3	82
Class 3 (2019)	58	1.3	75
Class 3 (2020)	35	1.3	46
Class 3 (2021)	71	1.3	92
Class 4 (2014)	289	1.45	419
Class 4 (2015)	269	1.45	390
Class 4 (2016)	222	1.45	322
Class 4 (2017)	285	1.45	413
Class 4 (2018)	382	1.45	554
Class 4 (2019)	326	1.45	473
Class 4 (2020)	334	1.45	484
Class 4 (2021)	466	1.45	676
Total	5,638		7,291
Average weighting factor (weighted transits ÷ number of transits)			1.29

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that the total cost of pilotage will be equal to the revenue needed after considering the impact of the weighting factors. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 13.

Table 13 — Revised Base Rates for District One

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (Initial rate ÷ Average weighting factor)

District One: Designated	\$1,119	1.29	\$867
District One: Undesignated	\$749	1.29	\$581

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs, including average traffic and weighting factions. Based on the financial information submitted by the pilots, the Director is not proposing any alterations to the rates in this step. We propose to modify § 401.405(a)(1) and (2) to reflect the final rates shown in table 14.

Table 14 — Proposed Final Rates for District One

Area	Name	Final 2022 pilotage rate	Proposed 2023 pilotage rate
District One: Designated	St. Lawrence River	\$834	\$867
District One: Undesignated	Lake Ontario	\$568	\$581

District Two

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year’s operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant’s financial reports for each association’s 2020

expenses and revenues.²³ For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Two are shown in table 15.

Adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking, where indicated under the **Public Participation and Request for Comments** portion of the preamble.

In the 2020 expenses used as the basis for this rulemaking, districts used the term "applicant" to describe applicant trainees and persons who would be called apprentices (applicant pilots) under the definition introduced by the 2022 final rule. Therefore, when describing past expenses, we use the term "applicant" to match what was reported from 2020, which includes both applicant and apprentice pilots. We use "apprentice" to distinguish apprentice pilot wages and describe the impacts of the ratemaking going forward.

We continue to include applicant salaries as an allowable expense in the 2023 ratemaking, as it is based on 2020 operating expenses, when salaries were still an allowable expense. The apprentice salaries paid in the years 2020 and 2021 have not been reimbursed in the ratemaking as of publication of this proposed rule. Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021 where the wages for apprentice pilots were still authorized as operating expenses. Beginning with the 2025 ratemaking, apprentice pilot salaries would no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022

²³ These reports are available in the docket for this rulemaking.

rates. Beginning in 2025, the applicant salaries' operating expenses for 2022 will consist of only applicant trainees (those who are not yet apprentice pilots).

Table 15 – 2020 Recognized Expenses for District Two

	District Two		
	Undesignated Lake Erie	Designated Southeast Shoal to Port Huron	Total
Reported Operating Expenses for 2020			
Applicant Salaries	\$ 101,810	\$ 152,715	\$ 254,525
Applicant Health Insurance	\$ 12,706	\$ 19,058	\$ 31,764
Applicant Subsistence/Travel	\$ 6,732	\$ 10,098	\$ 16,830
Applicant Hotel/Lodging Cost	\$ 3,652	\$ 5,478	\$ 9,130
Applicant Payroll Tax	\$ 4,888	\$ 7,332	\$ 12,220
	\$ 129,788	\$ 194,681	\$ 324,469
Total Applicant Cost			
Pilot Subsistence/Travel	\$ 124,953	\$ 187,427	\$ 312,380
Hotel/Lodging Cost	\$ 40,744	\$ 61,116	\$ 101,860
License Renewal	\$ 1,606	\$ 2,409	\$ 4,015
Payroll Taxes	\$ 94,996	\$ 142,495	\$ 237,491
Insurance	\$ 8,666	\$ 12,999	\$ 21,665
	\$ 270,965	\$ 406,446	\$ 677,411
Total Other Pilotage Costs			
<i>Pilot Boat and Dispatch Costs</i>			
Pilot Boat Cost	\$ 218,840	\$ 328,261	\$ 547,101
Employee Benefits	\$ 92,554	\$ 138,831	\$ 231,385
Payroll taxes	\$ 13,565	\$ 20,347	\$ 33,912
	\$ 324,959	\$ 487,439	\$ 812,398
Total Pilot Boat and Dispatch Costs			
<i>Administrative Expense</i>			
Legal- General Counsel	\$ 4,016	\$ 6,024	\$ 10,040
Legal- Shared Counsel (K&L Gates)	\$ 9,898	\$ 14,846	\$ 24,744
Legal- Shared Counsel (K&L Gates) (D2-20-01)	\$ 3,233	\$ 4,850	\$ 8,083
Office Rent	\$ 27,627	\$ 41,440	\$ 69,067
Insurance	\$ 12,357	\$ 18,536	\$ 30,893
Employee Benefits	\$ 157,650	\$ 236,476	\$ 394,126
Payroll Taxes	\$ 5,007	\$ 7,510	\$ 12,517
Other Taxes	\$ 43,400	\$ 65,100	\$ 108,500

Real Estate Taxes	\$	8,285	\$	12,427	\$	20,712
Depreciation/Auto Lease/Other	\$	7,783	\$	11,674	\$	19,457
Interest	\$	114	\$	171	\$	285
APA Dues	\$	14,683	\$	22,025	\$	36,708
Dues and Subscriptions	\$	819	\$	1,229	\$	2,048
Utilities	\$	18,453	\$	27,679	\$	46,132
Salaries- Admin Employees	\$	50,250	\$	75,374	\$	125,624
Accounting	\$	14,360	\$	21,540	\$	35,900
Pilot Training	\$	146	\$	219	\$	365
Other	\$	24,604	\$	36,906	\$	61,510
Total Administrative Expenses	\$	402,685	\$	604,026	\$	1,006,711
Total OpEx (Pilot Costs + Applicant Cost + Pilot Boats + Admin)	\$	1,128,397	\$	1,692,592	\$	2,820,989
<i>Director's Adjustments for Pilot Salaries</i>						
TOTAL DIRECTOR'S ADJUSTMENTS	\$	-	\$	-	\$	-
Total Operating Expenses (OpEx + Adjustments)	\$	1,128,397	\$	1,692,592	\$	2,820,989

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2020 operating expenses in Step 1, the next step is to estimate the current year’s operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2021 inflation rate.²⁴ Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2022 and 2023 inflation modification.²⁵ Based on that information, the calculations for Step 2 are as follows:

Table 16 — Adjusted Operating Expenses for District Two

	District Two		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	\$1,128,397	\$1,692,592	\$2,820,989
2021 Inflation Modification (@5.1%)	\$57,548	\$86,322	\$143,870
2022 Inflation Modification (@2.7033%)	\$32,021	\$48,031	\$80,052
2023 Inflation Modification (@2.3%)	\$28,013	\$42,020	\$70,033
Adjusted 2023 Operating Expenses	\$1,245,979	\$1,868,965	\$3,114,944

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.103, we estimate the number of fully registered pilots in each district. We determine the number of fully registered pilots based on data provided by the LPA. Using these numbers, we estimate that there will be 16 registered pilots in 2023 in District Two. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs. Using these numbers, we estimate that there will be two apprentice pilots in 2023 in

²⁴ The 2021 inflation rate is available at <https://data.bls.gov/pdq/SurveyOutputServlet>. Specifically, the CPI is defined as “All Urban Consumers (CPI-U), All Items, 1982-4=100.” Series CUUS0200SAO. (Downloaded March 2022)

²⁵ The 2022 and 2023 inflation rates are available at <https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20220316.pdf>. We used the PCE median inflation value found in table 1. (Downloaded March 2022)

District Two. Based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 17. These numbers are used to determine the amount of revenue needed in their respective areas.

Table 17 — Authorized Pilots for District Two

Item	District Two
Proposed Maximum Number of Pilots (per § 401.220(a)) *	16
2023 Authorized Pilots (total)	15
Pilots Assigned to Designated Areas	6
Pilots Assigned to Undesignated Areas	9
2023 Apprentice Pilots	2

* For a detailed calculation, refer to the Great Lakes Pilotage Rates – 2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice

Pilot Wage Benchmark

In this step, we determine the total pilot compensation for each area. Because we are proposing a full ratemaking this year, we propose to follow the procedure outlined in paragraph (a) of § 404.104, which requires us to develop a benchmark after considering the most relevant currently available non-proprietary information. In accordance with the discussion in Section VII of this preamble, the proposed compensation benchmark for 2023 uses the 2022 compensation of \$399,266 per registered pilot as a base, then adjusts for inflation following the procedure outlined in paragraph (b) of § 404.104. The proposed target pilot compensation for 2023 is \$422,336 per pilot. The proposed apprentice pilot wage benchmark is 36 percent of the target pilot compensation, or \$152,041 ($\$422,336 \times 0.36$).

Next, we certify that the number of pilots estimated for 2022 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 15 pilots for District Two, which is less than or equal to 15, the number of registered pilots provided by the pilot association. In accordance with § 404.104(c), we use the revised target individual compensation level to

derive the total pilot compensation by multiplying the individual target compensation by the estimated number of registered pilots for District Two, as shown in table 18. We estimate that the number of apprentice pilots with limited registration needed will be two for District Two in the 2023 season. The total target wages for apprentices are allocated with 60 percent for the designated area and 40 percent for the undesignated area, in accordance with the allocation for operating expenses.

Table 18 — Target Compensation for District Two

	District Two		
	Undesignated	Designated	Total
Target Pilot Compensation	\$422,336	\$422,336	\$422,336
Number of Pilots	9	6	15
Total Target Pilot Compensation	\$3,801,024	\$2,534,016	\$6,335,040
Target Apprentice Pilot Compensation	\$152,041	\$152,041	\$152,041
Number of Apprentice Pilots			2
Total Target Apprentice Pilot Compensation	\$121,632.92	\$182,449.00	\$304,082

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wage for each area. Then we find the preceding year’s average annual rate of return for new issues of high-grade corporate securities. Using Moody’s data, the number is 2.7033 percent.²⁶ By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 19.

Table 19 — Working Capital Fund Calculation for District Two

	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	\$1,245,979	\$1,868,965	\$3,114,944

²⁶ Moody’s Seasoned Aaa Corporate Bond Yield, average of 2021 monthly data. The Coast Guard uses the most recent year of complete data. Moody’s is taken from Moody’s Investors Service, which is a bond credit rating business of Moody’s Corporation. Bond ratings are based on creditworthiness and risk. The rating of “Aaa” is the highest bond rating assigned with the lowest credit risk. See <https://fred.stlouisfed.org/series/AAA>. (Downloaded March 2022)

Total Target Pilot Compensation (Step 4)	\$3,801,024	\$2,534,016	\$6,335,040
Total Target Apprentice Pilot Compensation (Step 4)	\$121,633	\$182,449	\$304,082
Total 2023 Expenses	\$5,168,636	\$4,585,430	\$9,754,066
Working Capital Fund (2.7033%)	\$139,725	\$123,959	\$263,684

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), total target apprentice pilot wage, (from Step 4) and the working capital fund contribution (from Step 5). We show these calculations in table 20.

Table 20 — Revenue Needed for District Two

	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	\$1,245,979	\$1,868,965	\$3,114,944
Total Target Pilot Compensation (Step 4)	\$3,801,024	\$2,534,016	\$6,335,040
Total Target Apprentice Pilot Compensation (Step 4)	\$121,633	\$182,449	\$304,082
Working Capital Fund (Step 5)	\$139,725	\$123,959	\$263,684
Total Revenue Needed	\$5,308,361	\$4,709,389	\$10,017,750

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District Two, using the total time on task or pilot bridge hours. To calculate the time on task for each district, the Coast Guard uses billing data from SeaPro. We pull the data from the system filtering by district, year, job status (we only include processed jobs), and flagging code (we only include U.S. jobs). Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 21.

Table 21 — Time on Task for District Two (Hours)

Year	District Two	
	Undesignated	Designated
2021	8,826	3,226
2020	6,232	8,401
2019	6,512	7,715
2018	6,150	6,655
2017	5,139	6,074
2016	6,425	5,615
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
Average	6,213	5,933

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. We present the calculations for District Two in table 22.

Table 22 — Initial Rate Calculations for District Two

	Undesignated	Designated
Revenue needed (Step 6)	\$5,308,361	\$4,709,389
Average time on task (hours)	6,213	5,933
Initial rate	\$854	\$794

H. Step 8: Calculate Average Weighting Factors by Area.

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 23 and 24.

Table 23 — Average Weighting Factor for District Two, Undesignated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21

Class 1 (2018)	37	1	37
Class 1 (2019)	54	1	54
Class 1 (2020)	1	1	1
Class 1 (2021)	7	1	7
Class 2 (2014)	356	1.15	409
Class 2 (2015)	354	1.15	407
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255
Class 2 (2018)	123	1.15	141
Class 2 (2019)	127	1.15	146
Class 2 (2020)	165	1.15	190
Class 2 (2021)	206	1.15	237
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	12
Class 3 (2017)	12	1.3	16
Class 3 (2018)	3	1.3	4
Class 3 (2019)	1	1.3	1
Class 3 (2020)	1	1.3	1
Class 3 (2021)	5	1.3	7
Class 4 (2014)	636	1.45	922
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	679
Class 4 (2017)	319	1.45	463
Class 4 (2018)	196	1.45	284
Class 4 (2019)	210	1.45	305
Class 4 (2020)	201	1.45	291
Class 4 (2021)	227	1.45	329
Total	5,019		6,592
Average weighting factor (weighted transits ÷ number of transits)		1.31	

Table 24 — Average Weighting Factor for District Two, Designated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 1 (2018)	42	1	42
Class 1 (2019)	48	1	48
Class 1 (2020)	7	1	7
Class 1 (2021)	12	1	12
Class 2 (2014)	237	1.15	273

Class 2 (2015)	217	1.15	250
Class 2 (2016)	224	1.15	258
Class 2 (2017)	127	1.15	146
Class 2 (2018)	153	1.15	176
Class 2 (2019)	281	1.15	323
Class 2 (2020)	342	1.15	393
Class 2 (2021)	240	1.15	276
Class 3 (2014)	8	1.3	10
Class 3 (2015)	8	1.3	10
Class 3 (2016)	4	1.3	5
Class 3 (2017)	4	1.3	5
Class 3 (2018)	14	1.3	18
Class 3 (2019)	1	1.3	1
Class 3 (2020)	5	1.3	7
Class 3 (2021)	2	1.3	3
Class 4 (2014)	359	1.45	521
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407
Class 4 (2017)	185	1.45	268
Class 4 (2018)	379	1.45	550
Class 4 (2019)	403	1.45	584
Class 4 (2020)	405	1.45	587
Class 4 (2021)	268	1.45	389
Total	4,674		6,140
Average weighting factor (weighted transits ÷ number of transits)			1.31

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that the total cost of pilotage will be equal to the revenue needed after considering the impact of the weighting factors. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 25.

Table 25 — Revised Base Rates for District Two

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (Initial rate ÷ Average weighting factor)
District Two: Undesignated	\$854	1.31	\$652
District Two: Designated	\$794	1.31	\$606

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods, and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on the financial information submitted by the pilots, the Director is not proposing any alterations to the rates in this step. We propose to modify § 401.405(a)(3) and (4) to reflect the final rates shown in table 26.

Table 26 — Proposed Final Rates for District Two

Area	Name	Final 2022 pilotage rate	Proposed 2023 pilotage rate
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI	\$536	\$606
District Two: Undesignated	Lake Erie	\$610	\$652

District Three

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year’s operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant’s financial reports for each association’s 2020

expenses and revenues.²⁷ For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Three are shown in table 27.

Adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking, where indicated under the **Public Participation and Request for Comments** portion of the preamble.

In the 2020 expenses used as the basis for this rulemaking, districts used the term "applicant" to describe applicant trainees and persons who would be called apprentices (applicant pilots) under the definition introduced by the 2022 final rule. Therefore, when describing past expenses, we use the term "applicant" to match what was reported from 2020, which includes both applicant and apprentice pilots. We use "apprentice" to distinguish apprentice pilot wages and describe the impacts of the ratemaking going forward.

We continue to include applicant salaries as an allowable expense in the 2023 ratemaking, as it is based on 2020 operating expenses, when salaries were still an allowable expense. The apprentice salaries paid in the years 2020 and 2021 have not been reimbursed in the ratemaking as of publication of this proposed rule. Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021 where the wages for apprentice pilots were still authorized as operating expenses. Beginning with the 2025 ratemaking, apprentice pilot salaries would no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022

²⁷ These reports are available in the docket for this rulemaking.

rates. Beginning in 2025, the applicant salaries' operating expenses for 2022 will consist of only applicant trainees (those who are not yet apprentice pilots).

Table 27 — 2020 Recognized Expenses for District Three

Reported Operating Expenses for 2020	District Three			Total
	Undesignated Lakes Huron and Michigan	Designated St. Mary's River	Undesignated Lake Superior	
<i>Other Pilotage Costs</i>				
Pilot Subsistence/Travel	\$284,547	\$118,603	\$149,261	\$552,411
Hotel/Lodging Cost	\$87,208	\$36,349	\$45,745	\$169,302
License Insurance- Pilots	\$16,749	\$6,981	\$8,786	\$32,516
Payroll Taxes	\$-	\$-	\$-	\$-
Payroll Tax (D3-19-01)	\$151,266	\$63,049	\$79,348	\$293,663
Other	\$6,505	\$2,711	\$3,412	\$12,628
Total Other Pilotage Costs	\$546,275	\$227,693	\$286,552	\$1,060,520
<i>Applicant Cost</i>				
Applicant Salaries	\$340,677	\$141,998	\$178,705	\$661,380
Applicant Benefits	\$66,083	\$27,544	\$34,665	\$128,292
Applicant Payroll Tax	\$25,711	\$10,717	\$13,487	\$49,915
Applicant Hotel/Lodging	\$31,313	\$13,052	\$16,425	\$60,790
Total Applicant Cost	\$463,784	\$193,311	\$243,282	\$900,377
<i>Pilot Boat and Dispatch costs</i>				
Pilot Boat Costs	\$515,075	\$214,689	\$270,187	\$999,951
Dispatch Costs	\$112,008	\$46,686	\$58,755	\$217,449
Employee Benefits	\$41,153	\$17,153	\$21,587	\$79,893
Payroll Taxes	\$16,771	\$6,991	\$8,798	\$32,560
Total Pilot Boat and Dispatch costs	\$685,007	\$285,519	\$359,327	\$1,329,853
<i>Administrative Cost</i>				
Legal- General Counsel	\$1,921	\$801	\$1,008	\$3,730
Legal- Shared Counsel (K&L Gates)	\$21,650	\$9,024	\$11,357	\$42,031
Legal- Shared Counsel (K&L Gates) CPA Deduction (D3-20-03)	\$ 3,601	\$1,501	\$1,889	\$6,991
Legal- USCG Litigation	\$8,575	\$3,574	\$4,498	\$16,647
Insurance	\$18,811	\$7,841	\$9,867	\$36,519
Employee Benefits	\$80,117	\$33,394	\$42,026	\$155,537
Payroll Tax	\$8,101	\$3,377	\$4,250	\$15,728
Other Taxes	\$15,797	\$6,584	\$8,286	\$30,667
Real Estate Taxes	\$2,001	\$834	\$1,050	\$3,885

Depreciation/Auto Leasing/Other	\$61,096	\$25,465	\$32,048	\$118,609
Interest	\$2,940	\$1,225	\$1,542	\$5,707
APA Dues	\$23,860	\$9,945	\$12,516	\$46,321
Dues and Subscriptions	\$4,971	\$2,072	\$2,607	\$9,650
Salaries	\$50,795	\$21,172	\$26,645	\$98,612
Utilities	\$54,212	\$22,596	\$28,438	\$105,246
Accounting/Professional Fees	\$23,823	\$9,930	\$12,496	\$46,249
Other Expenses	\$38,507	\$16,050	\$20,199	\$74,756
Other Expenses CPA Deduction (D3-18-01)	\$ (4,684)	\$(1,952)	\$(2,457)	\$(9,093)
Total Administrative Expenses	\$416,094	\$173,433	\$218,265	\$807,792
Total Operating Expenses (Other Costs+ Applicant Cost + Pilot Boats + Admin)	\$2,111,160	\$879,956	\$1,107,426	\$4,098,542
<i>Director's Adjustments - Applicant Surcharge Collected</i>	\$(63,120)	\$(26,309)	\$(33,110)	\$(122,539)
Total Director's Adjustments	\$(63,120)	\$(26,309)	\$(33,110)	\$(122,539)
Total Operating Expenses (OpEx + Adjustments)	\$2,048,040	\$853,647	\$1,074,316	\$3,976,003

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2020 operating expenses in Step 1, the next step is to estimate the current year’s operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2021 inflation rate.²⁸ Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2022 and 2023 inflation modification.²⁹ Based on that information, the calculations for Step 2 are as follows:

Table 28 — Adjusted Operating Expenses for District Three

	District Three		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	\$3,122,356	\$853,647	\$3,976,003
2021 Inflation Modification (@5.1%)	\$159,240	\$43,536	\$202,776
2022 Inflation Modification (@2.7033%)	\$88,603	\$24,224	\$112,827
2023 Inflation Modification (@2.3%)	\$77,515	\$21,192	\$98,707
Adjusted 2023 Operating Expenses	\$3,447,714	\$942,599	\$4,390,313

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.103, we estimate the number of registered pilots in each district. We determine the number of registered pilots based on data provided by the WGLPA. Using these numbers, we estimate that there will be 22 registered pilots in 2023 in District Three. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs. Using these numbers, we estimate that there will be three apprentice pilots in 2023 in District

²⁸ The 2021 inflation rate is available at <https://data.bls.gov/pdq/SurveyOutputServlet>. Specifically, the CPI is defined as “All Urban Consumers (CPI-U), All Items, 1982-4=100.” Series CUUS0200SAO (Downloaded March 2022)

²⁹ The 2022 and 2023 inflation rates are available at <https://www.federalreserve.gov/monetarypolicy/files/fomcproptabl20220316.pdf>. We used the PCE median inflation value found in table 1. (Downloaded March 2022)

Three. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 29. These numbers are used to determine the amount of revenue needed in their respective areas.

Table 29 — Authorized Pilots for District Three

Item	District Three
Proposed Maximum Number of Pilots (per § 401.220(a)) *	22
2023 Authorized Pilots (total)	22
Pilots Assigned to Designated Areas	5
Pilots Assigned to Undesignated Areas	17
2023 Apprentice Pilots	3

* For a detailed calculation, refer to the Great Lakes Pilotage Rates – 2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice

Pilot Wage Benchmark

In this step, we determine the total pilot compensation for each area. Because we are proposing a full ratemaking this year, we propose to follow the procedure outlined in paragraph (a) of § 404.104, which requires us to develop a benchmark after considering the most relevant currently available non-proprietary information. In accordance with the discussion in Section VII above, the proposed compensation benchmark for 2023 uses the 2022 compensation of \$399,266 per registered pilot as a base, then adjusts for inflation following the procedure outlined in paragraph (b) of § 404.104. The proposed target pilot compensation for 2023 is \$422,336 per pilot. The proposed apprentice pilot wage benchmark is 36 percent of the target pilot compensation, or \$152,041 ($\$422,336 \times 0.36$).

Next, we certify that the number of pilots estimated for 2022 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 22 pilots for District Three, which is less than or equal to 22, the number of registered pilots provided by the pilot association. In accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by

the estimated number of registered pilots for District Three, as shown in table 30. We estimate that the number of apprentice pilots with limited registration needed will be three for District Three in the 2023 season. The total target wages for apprentices are allocated with 21 percent for the designated area, and 79 percent (52 percent + 27 percent) for the undesignated areas, in accordance with the allocation for operating expenses.

Table 30 — Target Compensation for District Three

	District Three		
	Undesignated	Designated	Total
Target Pilot Compensation	\$422,336	\$422,336	\$422,336
Number of Pilots	17	5	22
Total Target Pilot Compensation	\$7,179,712	\$2,111,680	\$9,291,392
Target Apprentice Pilot Compensation	\$152,041	\$152,041	\$152,041
Number of Apprentice Pilots			3
Total Target Apprentice Pilot Compensation	\$358,193	\$97,929	\$456,122.88

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wage for each area. Then we find the preceding year’s average annual rate of return for new issues of high-grade corporate securities. Using Moody’s data, the number is 2.7033 percent.³⁰ By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 31.

Table 31 — Working Capital Fund Calculation for District Three

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	\$3,447,714	\$942,599	\$4,390,313
Total Target Pilot Compensation (Step 4)	\$7,179,712	\$2,111,680	\$9,291,392

³⁰ Moody’s Seasoned Aaa Corporate Bond Yield, average of 2021 monthly data. The Coast Guard uses the most recent year of complete data. Moody’s is taken from Moody’s Investors Service, which is a bond credit rating business of Moody’s Corporation. Bond ratings are based on creditworthiness and risk. The rating of “Aaa” is the highest bond rating assigned with the lowest credit risk. See <https://fred.stlouisfed.org/series/AAA>. (Downloaded March 2022)

Total Target Apprentice Pilot Compensation (Step 4)	\$358,193	\$97,929	\$456,123
Total 2023 Expenses	\$10,985,619	\$3,152,208	\$14,137,828
Working Capital Fund (2.7033%)	\$296,978	\$85,215	\$382,193

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in table 32.

Table 32 — Revenue Needed for District Three

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	\$3,447,714	\$942,599	\$4,390,313
Total Target Pilot Compensation (Step 4)	\$7,179,712	\$2,111,680	\$9,291,392
Total Target Apprentice Pilot Compensation (Step 4)	\$358,193	\$97,929	\$456,123
Working Capital Fund (Step 5)	\$296,978	\$85,215	\$382,193
Total Revenue Needed	\$11,282,597	\$3,237,423	\$14,520,021

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate, we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District Three, using the total time on task or pilot bridge hours. To calculate the time on task for each district, the Coast Guard uses billing data from SeaPro. We pull the data from the system filtering by district, year, job status (we only include processed jobs), and flagging code (we only include U.S. jobs). Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 33.

Table 33 — Time on Task for District Three (Hours)

Year	District Three	
	Undesignated	Designated

2021	18,219	2,584
2020	24,178	3,682
2019	24,851	3,395
2018	19,967	3,455
2017	20,955	2,997
2016	23,421	2,769
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
Average	21,327	3,021

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for District Three are set forth in table 34.

Table 34 — Initial Rate Calculations for District Three

	Undesignated	Designated
Revenue needed (Step 6)	\$11,282,597	\$3,237,423
Average time on task (hours)	21,327	3,021
Initial rate	\$529	\$1,072

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 35 and 36.

Table 35 — Average Weighting Factor for District Three, Undesignated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 1 (2018)	103	1	103
Class 1 (2019)	173	1	173
Class 1 (2020)	4	1	4

Class 1 (2021)	7	1	7
Class 2 (2014)	274	1.15	315
Class 2 (2015)	207	1.15	238
Class 2 (2016)	236	1.15	271
Class 2 (2017)	264	1.15	304
Class 2 (2018)	169	1.15	194
Class 2 (2019)	279	1.15	321
Class 2 (2020)	395	1.15	454
Class 2 (2021)	261	1.15	300
Class 3 (2014)	15	1.3	20
Class 3 (2015)	8	1.3	10
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	25
Class 3 (2018)	9	1.3	12
Class 3 (2019)	9	1.3	12
Class 3 (2020)	4	1.3	5
Class 3 (2021)	7	1.3	9
Class 4 (2014)	394	1.45	571
Class 4 (2015)	375	1.45	544
Class 4 (2016)	332	1.45	481
Class 4 (2017)	367	1.45	532
Class 4 (2018)	337	1.45	489
Class 4 (2019)	334	1.45	484
Class 4 (2020)	413	1.45	599
Class 4 (2021)	312	1.45	452
Total for Area 6	5,702		7,328
Area 8			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 1 (2018)	0	1	0
Class 1 (2019)	0	1	0
Class 1 (2020)	1	1	1
Class 1 (2021)	4	1	4
Class 2 (2014)	177	1.15	204
Class 2 (2015)	169	1.15	194
Class 2 (2016)	174	1.15	200
Class 2 (2017)	151	1.15	174
Class 2 (2018)	102	1.15	117
Class 2 (2019)	120	1.15	138
Class 2 (2020)	239	1.15	275

Class 2 (2021)	96	1.15	110
Class 3 (2014)	3	1.3	4
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9
Class 3 (2017)	18	1.3	23
Class 3 (2018)	7	1.3	9
Class 3 (2019)	6	1.3	8
Class 3 (2020)	2	1.3	3
Class 3 (2021)	1	1.3	1
Class 4 (2014)	243	1.45	352
Class 4 (2015)	253	1.45	367
Class 4 (2016)	204	1.45	296
Class 4 (2017)	269	1.45	390
Class 4 (2018)	188	1.45	273
Class 4 (2019)	254	1.45	368
Class 4 (2020)	456	1.45	661
Class 4 (2021)	182	1.45	264
Total for Area 8	3,337		4456
Combined total	9,039		11784
Average weighting factor (weighted transits ÷ number of transits)		1.30	

Table 36 — Average Weighting Factor for District Three, Designated Areas

Vessel Class/Year	Number of Transits	Weighting factor	Weighted Transits
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 1 (2018)	47	1	47
Class 1 (2019)	45	1	45
Class 1 (2020)	16	1	16
Class 1 (2021)	12	1	12
Class 2 (2014)	221	1.15	254
Class 2 (2015)	145	1.15	167
Class 2 (2016)	174	1.15	200
Class 2 (2017)	170	1.15	196
Class 2 (2018)	126	1.15	145
Class 2 (2019)	162	1.15	186
Class 2 (2020)	250	1.15	288
Class 2 (2021)	128	1.15	147
Class 3 (2014)	4	1.3	5
Class 3 (2015)	0	1.3	0

Class 3 (2016)	6	1.3	8
Class 3 (2017)	14	1.3	18
Class 3 (2018)	6	1.3	8
Class 3 (2019)	3	1.3	4
Class 3 (2020)	4	1.3	5
Class 3 (2021)	2	1.3	3
Class 4 (2014)	321	1.45	465
Class 4 (2015)	245	1.45	355
Class 4 (2016)	191	1.45	277
Class 4 (2017)	234	1.45	339
Class 4 (2018)	225	1.45	326
Class 4 (2019)	308	1.45	447
Class 4 (2020)	385	1.45	558
Class 4 (2021)	299	1.45	434
Total	3,910		5,122
Average weighting factor (weighted transits ÷ number of transits)		1.31	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that the total cost of pilotage will be equal to the revenue needed after considering the impact of the weighting factors. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 37.

Table 37 — Revised Base Rates for District Three

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (Initial rate ÷ Average weighting factor)
District Three: Undesignated	\$529	1.30	\$407
District Three: Designated	\$1,072	1.31	\$818

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient

number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs and takes average traffic and weighting factors into consideration. Based on this information, the Director is not proposing any alterations to the rates in this step. We propose to modify § 401.405(a)(5) and (6) to reflect the final rates shown in table 38.

Table 38 — Proposed Final Rates for District Three

Area	Name	Final 2022 pilotage rate	Proposed 2023 pilotage rate
District Three: Designated	St. Mary’s River	\$662	\$818
District Three: Undesignated	Lakes Huron, Michigan, and Superior	\$342	\$407

X. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Office of Management and Budget (OMB) has not designated this proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. A regulatory analysis follows.

The purpose of this proposed rule is to establish new base pilotage rates, as 46

U.S.C. 9303(f) requires that rates be established or reviewed and adjusted each year. The statute also requires that base rates be established by a full ratemaking at least once every 5 years, and, in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The last full ratemaking was concluded in June of 2018.³¹ For this ratemaking, the Coast Guard estimates an increase in cost of approximately \$4.54 million to industry. This is approximately a 14-percent increase because of the change in revenue needed in 2023 compared to the revenue needed in 2022.

Table 39 — Economic Impacts Due to Proposed Changes

Change	Description	Affected Population	Costs	Benefits
Rate changes.	In accordance with 46 U.S.C. Chapter 93, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 285 vessels transiting the Great Lakes system annually, 55 United States Great Lakes pilots, 7 apprentice pilots, and 3 pilotage associations.	Increase of \$4,535,400 due to change in revenue needed for 2023 (\$37,022,395) from revenue needed for 2022 (\$32,486,995) as shown in table 40.	New rates cover an association’s necessary and reasonable operating expenses. Promotes safe, efficient, and reliable pilotage service on the Great Lakes. Provides fair compensation, adequate training, and sufficient rest periods for pilots. Ensures the association receives sufficient revenues to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See section IV of this preamble for detailed discussions of the legal basis and purpose for this rulemaking. Based on our annual review for this rulemaking, we are adjusting the pilotage rates for the 2023 shipping season to generate sufficient

³¹ Great Lakes Pilotage Rates — 2018 Annual Review and Revisions to Methodology (83 FR 26162), published June 5, 2018.

revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The result would be an increase in rates for all areas in District One, District Two, and District Three. These changes would also lead to a net increase in the cost of service to shippers. The change in per unit cost to each individual shipper will be dependent on their area of operation.

A detailed discussion of our economic impact analysis follows.

Affected Population

This proposed rule affects United States Great Lakes pilots and apprentice pilots, the 3 pilot associations, and the owners and operators of 285 oceangoing vessels that transit the Great Lakes annually on average from 2019 to 2021. We estimate that there will be 55 registered pilots and 7 apprentice pilots during the 2023 shipping season. The shippers affected by these rate changes are those owners and operators of domestic vessels operating “on register” (engaged in foreign trade) and owners and operators of non-Canadian foreign vessels on routes 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. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register, and Canadian “lakers,” which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these United States- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

The Coast Guard used billing information from the years 2019 through 2021 from the GLPMS to estimate the average annual number of vessels affected by the rate

adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. As described in Step 7 of the ratemaking methodology, we use a 10-year average to estimate the traffic. We used 3 years of the most recent billing data to estimate the affected population. When we reviewed 10 years of the most recent billing data, we found the data included vessels that have not used pilotage services in recent years. We believe using 3 years of billing data is a better representation of the vessel population that is currently using pilotage services and will be impacted by this rulemaking. We found that 424 unique vessels used pilotage services during the years 2019 through 2021. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS or SeaPro. Of these vessels, 397 were foreign-flagged vessels and 27 were U.S.-flagged vessels. As stated previously, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but they can voluntarily choose to have one.

Numerous factors affect vessel traffic, which varies from year to year. Therefore, rather than using the total number of vessels over the time period, we took an average of the unique vessels using pilotage services from the years 2019 through 2021 as the best representation of vessels estimated to be affected by the rates in this rulemaking. From 2019 through 2021, an average of 285 vessels used pilotage services annually.³² On average, 273 of these vessels were foreign-flagged and 12 were U.S.-flagged vessels that voluntarily opted into the pilotage service (these figures are rounded averages).

Total Cost to Shippers

The rate changes resulting from this adjustment to the rates would result in a net increase in the cost of service to shippers. However, the change in per unit cost to each

³² Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels using pilotage services in any given year.

individual shipper will be dependent on their area of operation.

The Coast Guard estimates the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2022 with the total projected revenues to cover costs in 2023. We set pilotage rates so pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they engage a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services. The change in revenue from the previous year is the additional cost to shippers discussed in this proposed rule.

The impacts of the rate changes on shippers are estimated from the district pilotage projected revenues (shown in tables 8, 20, and 32 of this preamble). The Coast Guard estimates that for the 2023 shipping season, the projected revenue needed for all three districts is \$37,022,395.

To estimate the change in cost to shippers from this proposed rule, the Coast Guard compared the 2023 total projected revenues to the 2022 projected revenues. Because we review and prescribe rates for Great Lakes pilotage annually, the effects are estimated as a single-year cost rather than annualized over a 10-year period. In the 2022 rulemaking, we estimated the total projected revenue needed for 2022 as \$32,486,994.³³ This is the best approximation of 2022 revenues, as, at the time of publication of this proposed rule, the Coast Guard does not have enough audited data available for the 2022 shipping season to revise these projections. Table 40 shows the revenue projections for 2022 and 2023 and details the additional cost increases to shippers by area and district as a result of the rate changes on traffic in Districts One, Two, and Three.

Table 40 — Effect of the Rulemaking by Area and District (\$U.S.; Non-discounted)

³³ 87 FR 18488, see table 42. <https://www.govinfo.gov/content/pkg/FR-2022-03-30/pdf/2022-06394.pdf>.

Area	Revenue Needed in 2022	Revenue Needed in 2023	Additional Costs of this Rulemaking
Total, District One	\$11,791,695	\$12,484,624	\$692,930
Total, District Two	\$8,786,881	\$10,017,750	\$1,230,868
Total, District Three	\$11,908,418	\$14,520,021	\$2,611,602
System Total	\$32,486,994	\$37,022,395	\$4,535,400

* All figures are rounded to the nearest dollar and may not sum.

The resulting difference between the projected revenue in 2022 and the projected revenue in 2023 is the annual change in payments from shippers to pilots as a result of the rate changes proposed by this rulemaking. The effect of the rate changes to shippers would vary by area and district. After taking into account the change in pilotage rates, the proposed rate changes would lead to affected shippers operating in District One experiencing an increase in payments of \$692,930 over the previous year. District Two and District Three would experience an increase in payments of \$1,230,868 and \$2,611,602, respectively, when compared with 2022. The overall adjustment in payments would be an increase in payments by shippers of \$4,535,400 across all three districts (a 14-percent increase when compared with 2022). Again, because the Coast Guard reviews and sets rates for Great Lakes pilotage annually, we estimate the impacts as single-year costs rather than annualizing them over a 10-year period.

Table 41 shows the difference in revenue by revenue-component from 2022 to 2023 and presents each revenue-component as a percentage of the total revenue needed. In both 2022 and 2023, the largest revenue-component was pilotage compensation (63 percent of total revenue needed in 2022, and 63 percent of total revenue needed in 2023), followed by operating expenses (31 percent of total revenue needed in 2022, and 32 percent of total revenue needed in 2023).

Table 41 — Difference in Revenue by Revenue-Component

Revenue Component	Revenue Needed in 2022	Percentage of Total Revenue Needed in 2022	Revenue Needed in 2023	Percentage of Total Revenue Needed in 2023	Difference (2023 Revenue - 2022 Revenue)	Percentage Change from Previous Year
Adjusted Operating Expenses	\$10,045,658	31%	\$11,755,133	32%	\$1,709,475	17%
Total Target Pilot Compensation	\$20,362,566	63%	\$23,228,480	63%	\$2,865,914	14%
Total Target Apprentice Pilot Compensation	\$1,293,622	4%	\$1,064,287	3%	(\$229,335)	(18%)
Working Capital Fund	\$785,149	2%	\$974,495	3%	\$189,346	24%
Total Revenue Needed	\$32,486,994	100%	\$37,022,395	100%	\$4,535,400	14%

* All figures are rounded to the nearest dollar and may not sum.

As stated above, we estimate that there would be a total increase in revenue needed by the pilot associations of \$4,535,400. This represents an increase in revenue needed for target pilot compensation of \$2,865,914, a decrease in revenue needed for total apprentice pilot wage benchmark of (\$229,335), an increase in the revenue needed for adjusted operating expenses of \$1,709,475, and an increase in the revenue needed for the working capital fund of \$189,346.

The change in revenue needed for pilot compensation, \$2,865,914, is due to three factors: (1) The changes to adjust 2022 pilotage compensation to account for the difference between actual ECI inflation³⁴ (5.6 percent) and predicted PCE inflation³⁵ (2.2 percent) for 2022; (2) an increase of one pilot in District Two and three pilots in District Three compared to 2022; and (3) projected inflation of pilotage compensation in Step 2 of the methodology, using predicted inflation through 2024.

The target compensation is \$422,336 per pilot in 2023, compared to \$399,266 in 2022. The proposed changes to modify the 2022 pilot compensation to account for the difference between predicted and actual inflation would increase the 2022 target compensation value by 3.4 percent. As shown in table 42, this inflation adjustment increases total compensation by \$13,575 per pilot, and the total revenue needed by \$746,627 when accounting for all 55 pilots.

Table 42 — Change in Revenue Resulting from the Change to Inflation of Pilot Compensation Calculation in Step 4

2022 Target Pilot Compensation	\$399,266
Adjusted 2022 Compensation (\$399,266 × 1.034%)	\$412,841

³⁴ Employment Cost Index, Total Compensation for Private Industry workers in Transportation and Material Moving, Annual Average, Series ID: CIU2010000520000A. Accessed April 29, 2022. <https://www.bls.gov/news.release/eci.t05.htm>

³⁵ <https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20220316.pdf>

Difference between Adjusted Target 2022 Compensation and Target 2022 Compensation (\$412,841 - \$399,266)	\$13,575
Increase in total Revenue for 55 Pilots (\$13,575 × 55)	\$746,627

* All figures are rounded to the nearest dollar and may not sum.

Similarly, table 43 shows the impact of the difference between predicted and actual inflation on the target apprentice pilot compensation benchmark. The inflation adjustment increases the compensation benchmark by \$4,887 per apprentice pilot, and the total revenue needed by \$34,209 when accounting for all seven apprentice pilots.

Table 43 — Change in Revenue Resulting from the Change to Inflation of Apprentice Pilot Compensation Calculation in Step 4

Target Apprentice Pilot Compensation	\$143,736
Adjusted Compensation (\$143,736 × 1.034%)	\$148,623
Difference between Adjusted Target Compensation and Target Compensation (\$148,623 - \$143,736)	\$4,887
Increase in total Revenue for Apprentices (\$4,887 × 7)	\$34,209

* All figures are rounded to the nearest dollar and may not sum.

As noted earlier, the Coast Guard predicts that 55 pilots would be needed for the 2023 season. This would be an increase of four pilots compared to the 2022 season. The difference reflects an increase of one pilot in District Two and three pilots in District Three. Table 44 shows the increase of \$1,635,044 in revenue needed solely for pilot compensation. As noted previously, to avoid double counting this value excludes the change in revenue resulting from the change to adjust 2022 pilotage compensation to account for the difference between actual and predicted inflation.

Table 44 — Change in Revenue Resulting from Increase of Four Pilots

2023 Target Compensation	\$422,336
Total Number of New Pilots	4
Total Cost of new Pilots (\$422,336 × 4)	\$1,689,344
Difference between Adjusted Target 2022 Compensation and Target 2022 Compensation (\$412,841 - \$399,266)	\$13,575
Increase in total Revenue for 4 Pilots (\$13,575 × 4)	\$54,300
Net Increase in total Revenue for 4 Pilots (\$1,689,344 - \$54,300)	\$1,635,044

* All figures are rounded to the nearest dollar and may not sum.

Similarly, the Coast Guard predicts that seven apprentice pilots would be needed for the 2023 season. This would be a decrease of two apprentices from the 2022 season. The difference reflects a decrease of two apprentices for District Three. Table 45 shows the decrease of (\$294,308) in revenue needed solely for apprentice pilot compensation. As noted previously, to avoid double counting this value excludes the change in revenue resulting from the change to adjust 2022 apprentice pilotage compensation to account for the difference between actual and predicted inflation.

Table 45 — Change in Revenue Resulting from Decrease of Two Apprentices

2023 Apprentice Target Compensation	\$152,041
Total Number of New Apprentices	(2)
Total Cost of new Apprentices (\$152,041 × -2)	(\$304,081.92)
Difference between Adjusted Target 2022 Compensation and Target 2022 Compensation (\$148,623 - \$143,736)	\$4,887
Increase in total Revenue for -2 Apprentices (\$4,887 × -2)	(\$9,774)

Net Increase in total Revenue for -2 Apprentices (-\$304,082 - -\$9,774)	(\$294,308)
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* All figures are rounded to the nearest dollar and may not sum.

Another increase, \$522,223, would be the result of increasing compensation for the 55 pilots to account for future inflation of 2.3 percent in 2023. This would increase total compensation by \$9,495 per pilot.

Table 46 — Change in Revenue Resulting from Inflating 2022 Compensation to 2023

Adjusted 2022 Compensation	\$412,841
2023 Target Compensation (\$412,841 × 1.023%)	\$422,336
Difference between Adjusted 2022 Compensation and Target 2023 Compensation (\$422,336 – \$412,841)	\$9,495
Increase in total Revenue for 55 Pilots (\$9,495 × 55)	\$522,223

* All figures are rounded to the nearest dollar and may not sum.

Similarly, an increase of \$23,927 would be the result of increasing compensation for the 7 apprentice pilots to account for future inflation of 2.3 percent in 2023. This would increase total compensation by \$3,418 per apprentice pilot, as shown in table 47.

Table 47 — Change in Revenue Resulting from Inflating 2022 Apprentice Pilot Compensation to 2023

Adjusted 2022 Compensation	\$148,623
2023 Target Compensation (\$148,623 × 16%)	\$152,041
Difference between Adjusted Compensation and Target Compensation (\$152,041 – \$148,623)	\$3,418
Increase in total Revenue for 7 Apprentice Pilots (\$3,418 × 7)	\$23,927

* All figures are rounded to the nearest dollar and may not sum.

Table 48 presents the percentage change in revenue by area and revenue-component, excluding surcharges, as they are applied at the district level.³⁶

³⁶ The 2022 projected revenues are from the Great Lakes Pilotage Rate-2022 Annual Review and Revisions to Methodology final rule (86 FR 14184), tables 9, 21, and 33. The 2023 projected revenues are from tables 8, 20, and 32 of this final rule.

Table 48 — Difference in Revenue by Revenue-Component and Area

	Adjusted Operating Expenses		Total Target Pilot Compensation		Total Target Apprenticeship Compensation		Working Capital Fund			Total Revenue Needed			
	2022	2023	2022	2023	2022	2023	2022	2023	2022	2023	2022	2023	Percentage Change
District One: Designated	\$2,419,401	\$2,549,925	\$3,992,660	\$4,223,360	\$172,483	\$182,449	\$163,077	\$188,037	\$6,747,621	\$7,143,771	\$6,747,621	\$7,143,771	5.9%
District One: Undesignated	\$1,613,051	\$1,699,951	\$3,194,128	\$3,378,688	\$114,989	\$121,633	\$121,906	\$140,581	\$5,044,074	\$5,340,853	\$5,044,074	\$5,340,853	5.9%
District Two: Undesignated	\$1,078,929	\$1,245,979	\$3,194,128	\$3,801,024	\$172,483	\$121,633	\$110,101	\$139,725	\$4,555,641	\$5,308,361	\$4,555,641	\$5,308,361	16.5%
District Two: Designated	\$1,618,395	\$1,868,965	\$2,395,596	\$2,534,016	\$114,989	\$182,449	\$102,261	\$123,959	\$4,231,241	\$4,709,389	\$4,231,241	\$4,709,389	11.3%
District Three: Undesignated	\$2,603,961	\$3,447,714	\$5,988,990	\$7,179,712	\$567,756	\$358,193	\$226,880	\$296,978	\$9,387,588	\$11,282,597	\$9,387,588	\$11,282,597	20.2%
District Three: Designated	\$711,920	\$942,599	\$1,597,064	\$2,111,680	\$150,923	\$97,929	\$60,924	\$85,215	\$2,520,831	\$3,237,423	\$2,520,831	\$3,237,423	28.4%

* All figures are rounded to the nearest dollar and may not sum.

Benefits

This proposed rule allows the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes promote safe, efficient, and reliable pilotage service on the Great Lakes by (1) ensuring that rates cover an association's operating expenses, (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots, and (3) ensuring pilot associations produce enough revenue to fund future improvements. The rate changes also help recruit and retain pilots, which ensure a sufficient number of pilots to meet peak shipping demand, helping to reduce delays caused by pilot shortages.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, we have 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 rulemaking, the Coast Guard reviewed recent company size and ownership data for the vessels identified in the GLPMS, and we reviewed business revenue and size data provided by publicly available sources such as ReferenceUSA.³⁷ As described in section X.A of this preamble, Regulatory Planning and Review, we found that 285 unique vessels used pilotage services during the years 2019 through 2021. These vessels are owned by 59 entities, of which 44 are foreign entities that operate primarily outside the United States, and the remaining 15 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) small business threshold as defined in the SBA's

³⁷ See <https://resource.referenceusa.com/>.

“Table of Size Standards” for small businesses to determine how many of these companies are considered small entities.³⁸ Table 49 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

Table 49 — NAICS Codes and Small Entities Size Standards

NAICS	Description	Small Entity Size Standard
238910	Site Preparation Contractors	\$16,500,000
423860	Transportation Equipment And Supplies	150 Employees
425120	Wholesale Trade Agents And Brokers	100 Employees
483212	Inland Water Passenger Transportation	500 Employees
484230	Specialized Freight (Except Used Goods) Trucking	\$30,000
488330	Navigational Services to Shipping	\$41,500,000
561510	Travel Agencies	\$22,000,000
561599	All Other Travel Arrangement And Reservation Services	\$22,000,000
713930	Marinas	\$8,000,000
813910	Business Associations	\$8,000,000

Of the 15 U.S. entities, 8 exceed the SBA’s small business standards for small entities. To estimate the potential impact on the seven small entities, the Coast Guard used their 2021 invoice data to estimate their pilotage costs in 2023. Of the seven small entities, from 2019 to 2021, only five used pilotage services in 2021. We increased their 2021 costs to account for the changes in pilotage rates resulting from this proposed rule and the Great Lakes Pilotage Rates – 2021 Annual Review and Revisions to Methodology final rule (86 FR 14184). We estimated the change in cost to these entities resulting from this rulemaking by subtracting their estimated 2022 pilotage costs from their estimated 2023 pilotage costs and found the average costs to small firms will be approximately \$25,575, with a range of \$1,580 to \$95,381. We then compared the

³⁸ See <https://www.sba.gov/document/support--table-size-standards>. SBA has established a “Table of Size Standards” for small businesses that sets small business size standards by NAICS code. A size standard, which is usually stated in number of employees or average annual receipts (“revenues”), represents the largest size that a business (including its subsidiaries and affiliates) may be in order to remain classified as a small business for SBA and Federal contracting programs. Accessed April 2022.

estimated change in pilotage costs between 2022 and 2023 with each firm's annual revenue. In all but one case, the impact of the change in estimated pilotage expenses were below 1 percent of revenues. For one entity, the change in impact would be 3.7 percent of revenues, as this entity reports revenue approximately ten times less than the next largest small entity.

In addition to the owners and operators discussed previously, three U.S. entities that receive revenue from pilotage services will be affected by this rulemaking. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. These associations are designated with the same NAICS code as Business Associations³⁹ with a small-entity size standard of \$8,000,000. Based on the reported revenues from audit reports, none of the associations qualify as small entities.

Finally, the Coast Guard did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields that will be impacted by this proposed rule. We also did not find any small governmental jurisdictions with populations of fewer than 50,000 people that will be impacted by this rulemaking. Based on this analysis, we conclude this rulemaking would not affect a substantial number of small entities, nor have a significant economic impact on any of the affected entities.

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 proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **Public Participation**

³⁹ In previous rulemakings, the associations used a different NAICS code, 483212 Inland Water Passenger Transportation, which had a size standard of 500 employees and, therefore, designated the associations as small entities. The change in NAICS code comes from an update to the association's ReferenceUSA profile in February 2022.

and Request for Comments section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

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

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the

various levels of government. We have analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

Congress directed the Coast Guard to establish “rates and charges for pilotage services.” See 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a “State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.” As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this rulemaking is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

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 million (adjusted

for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This 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.

J. 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.

I. Protection of Children

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

K. 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.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This proposed rule would be categorically excluded under paragraphs A3 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. Paragraph A3 pertains to the promulgation of rules of the following nature: (a) those of a strictly administrative or procedural nature; (b) those

that implement, without substantive change, statutory or regulatory requirements; (c) those that implement, without substantive change, procedures, manuals, and other guidance documents; (d) those that interpret or amend an existing regulation without changing its environmental effect; (e) those that provide technical guidance on safety and security matters; and (f) those that provide guidance for the preparation of security plans. Paragraph L54 pertains to regulations which are editorial or procedural.

This proposed rule involves setting or adjusting the pilotage rates for the 2023 shipping season to account for changes in district operating expenses, changes in the number of pilots, and anticipated inflation. In addition, the Coast Guard is accepting comments on the entire Great Lakes pilotage ratemaking methodology, in accordance with the requirement to conduct a full ratemaking every 5 years. We are also accepting suggestions for changes to the staffing model, for consideration in a future rulemaking. All of these changes are consistent with the Coast Guard's maritime safety missions. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 is proposing 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. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; DHS Delegation 00170.1, Revision No. 01.2, paragraphs (II)(92)(a), (d), (e), (f).

2. Amend §401.405 by revising paragraphs (a)(1) through (6) to read as follows:

§ 401.405 Pilotage rates and charges.

(a) * * *

(1) The St. Lawrence River is \$867;

(2) Lake Ontario is \$581;

(3) Lake Erie is \$683;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is \$606;

(5) Lakes Huron, Michigan, and Superior is \$407; and

(6) The St. Marys River is \$818.

* * * * *

Dated: August 25, 2022.

W. R. Arguin,
Rear Admiral, U.S. Coast Guard,
Assistant Commandant for Prevention Policy.

[FR Doc. 2022-18690 Filed: 8/29/2022 8:45 am; Publication Date: 8/30/2022]