planned. For further information, please see the direct final action.

Dated: June 21, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–19393 Filed 8–3–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2011–0328]

RIN 1625–AB70

2012 Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes adjustments to the rates for pilotage services on the Great Lakes, which were last amended in February 2011. The proposed adjustments would establish new base rates and are made in accordance with a required full ratemaking procedure. They result in an average decrease of approximately 4 percent from the rates established in February 2011. This rulemaking promotes the Coast Guard's strategic goal of maritime safety.

DATES: Comments and related material must be submitted on or before October 3, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0328 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG–5522), Coast Guard; telephone 202–372–2037, e-mail *Todd.A.Haviland@uscg.mil,* or fax 202–372–1909. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0328), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2011–0328'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0328'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

AMOU American Maritime Officers Union.
CFR Code of Federal Regulations.
CPI Consumer Price Index.
FR **Federal Register**.
NAICS North American Industry Classification System.
NPRM Notice of proposed rulemaking.
OMB Office of Management and Budget.
ROI Return on Investment.
§ Section symbol.
U.S.C. United States Code.

III. Basis and Purpose

The basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act'') (46 U.S.C. Chapter 93), which requires U.S. vessels operating ''on register''[1] and foreign vessels to use U.S. registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302(a)(1). The Act 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.'' Rates must be established or reviewed and adjusted each year, not later than March 1. Base rates must 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 adjusted if necessary. 46 U.S.C. 9303(f). The Secretary's duties and authority under the Act have been delegated to the Coast Guard. Department of Homeland Security Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of Title 46, Code of Federal Regulations (CFR). Procedures for use in establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

The purpose of this rulemaking is to establish new base pilotage rates, using the 46 CFR part 404, Appendix A, methodology.

IV. Background

The vessels affected by this rulemaking are engaged in foreign trade upon the U.S. waters of the Great Lakes. U.S. and Canadian ''Lakers,''[2] which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage to operate a pilotage pool. It is important to note that, while we set rates, we do not control the actual number of pilots an association maintains, so long as the association is able to provide safe, efficient, and reliable pilotage service. We also do not control the actual compensation that pilots receive. The actual compensation is determined by each of the three district associations, which use different compensation practices.

District One, consisting of Areas 1 and 2, includes all U.S. waters of the St. Lawrence River and Lake Ontario. District Two, consisting of Areas 4 and 5, includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three, consisting of Areas 6, 7, and 8, includes all U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority and, accordingly, is not included in the U.S. rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Act, to be waters in which pilots must at all times be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. While working in those undesignated areas, pilots must only ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(B).

This rulemaking is a full ratemaking to establish new base pilotage rates, using the 46 CFR part 404, Appendix A, methodology. Among other things, the Appendix A methodology requires us to review detailed pilot association financial information, and we contract with independent accountants to assist in that review. The last full ratemaking established the current base rates in 2006 (final rule, 71 FR 16501, April 3, 2006). Following the 2006 full ratemaking, and for the first time since 1996 when the 46 CFR part 404 Appendix A and Appendix C methodologies were established, we began a series of five annual Appendix C rate reviews and adjustments, each of which produced overall rate increases. The most recent Appendix C annual review was concluded on February 4, 2011 (76 FR 6351) and adjusts pilotage rates effective August 1, 2011.

We intended to establish new base rates within 5 years of the 2006 full ratemaking, or by March 1, 2011. However, an initial independent accountant's report on pilot association financial information was incomplete and inadequate, and could not be used for ratemaking. The resulting need to contract with a new independent accountant pushed this Appendix A ratemaking back a year, as we previously informed the public in 2009 and 2010 annual review rulemaking documents. 74 FR 56153 at 56154 (October 30, 2009), 75 FR 51191 at 51192 (August 19, 2010). We have now completed our review of the second independent accountant's 2009 pilot financial report. The comments by the pilot associations on that report and the independent accountant's final findings are discussed in our document entitled ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses,'' which appears in the docket.

V. Discussion of Proposed Rule

A. Summary

We propose establishing new base pilotage rates in accordance with the methodology outlined in Appendix A to 46 CFR Part 404. The proposed new rates would be established by March 1, 2012 and effective August 1, 2012. They would average approximately 4 percent less, overall, than the February 2011 rate adjustments. Table 1 shows the proposed percent change for the new rates for each area. Rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420) and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428), would also decrease by 4 percent in all areas.

TABLE 1—SUMMARY OF RATE ADJUSTMENTS

If pilotage service is required in:	Then the percent decrease over the current rate is:
Area 1 (Designated waters)	−1.74
Area 2 (Undesignated waters)	−9.09
Area 4 (Undesignated waters)	−3.64
Area 5 (Designated waters)	−2.84

[1] ''On register'' means that the vessel's certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

[2] A ''Laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

TABLE 1—SUMMARY OF RATE ADJUSTMENTS—Continued

If pilotage service is required in:	Then the percent decrease over the current rate is:
Area 6 (Undesignated waters)	−3.73
Area 7 (Designated waters)	−3.08
Area 8 (Undesignated waters)	−5.08

B. Discussion of Methodology

Appendix A provides seven steps, with sub-steps, for calculating rate adjustments. The following discussion describes those steps and sub-steps and includes tables showing how we have applied them to the 2009 detailed pilot financial information.

Step 1: Projection of Operating Expenses. In this step, we project the amount of vessel traffic annually. Based upon that projection, we forecast the amount of fair and reasonable operating expenses that pilotage rates should recover.

Step 1.A: Submission of Financial Information. This sub-step requires each pilot association to provide us with detailed financial information in accordance with 46 CFR part 403. The associations complied with this requirement, supplying 2009 financial information in 2010.

Step 1.B: Determination of Recognizable Expenses. This sub-step requires us to determine which reported association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition, or if they should be denied for ratemaking purposes. The independent accountant made preliminary findings; they were sent to the pilot associations, and the pilot associations reviewed and commented on the preliminary findings. Then, the independent accountant made final findings. The Coast Guard Director of Great Lakes Pilotage reviewed and accepted those final findings, resulting in the determination of recognizable expenses. The preliminary findings, the associations' comments on those findings, and the final findings are all discussed in the ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses,'' which appears in the docket. Tables 2 through 4 show each association's recognized expenses.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2009	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
Pilot Costs:			
Pilot subsistence/travel	$164,782	$131,436	$296,218
License insurance	$28,428	$18,952	$47,380
Other	$980	$857	$1,837
Pilot Boat and Dispatch Expenses:			
Pilot boat expense	$101,612	$82,506	$184,118
Administrative Expenses:			
Legal	$10,450	$8,685	$19,135
Depreciation/auto leasing/other	$8,917	$7,283	$16,200
Dues and subscriptions	$13,717	$10,678	$24,395
Bad debt expense	$9,302	$1,004	$10,306
Utilities	$478	$346	$824
Accounting/professional fees	$2,182	$1,818	$4,000
Bookkeeping and Administration	$77,730	$66,121	$143,851
Other	$762	$582	$1,344
Total recognizable	$419,340	$330,268	$749,608
Adjustments:			
Other Pilot Costs:			
Pilotage Subsistence/Travel	($4,624)	($3,641)	($8,265)
Payroll taxes	$48,508	$38,204	$86,712
Other	($589)	($463)	($1,052)
Administrative Expenses:			
Legal	($270)	($212)	($482)
Dues and subscriptions	($13,647)	($10,748)	($24,395)
Bad debt expense	($5,765)	($4,540)	($10,305)
Other	($120)	($94)	($214)
Total adjustments	$23,495	$18,504	$41,999
Total Expenses	$442,835	$348,772	$791,607

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2009	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Pilot Costs:			

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2009	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Pilot subsistence/travel	$67,580	$101,371	$168,951
License insurance	$6,254	$9,380	$15,634
Payroll taxes	$19,453	$43,770	$63,223
Other	$12,697	$28,662	$41,359
Pilot Boat and Dispatch Expenses:			
Pilot boat expense	$28,026	$179,577	$207,603
Dispatch expense	$12,975	$0	$12,975
Payroll taxes	$0	$7,154	$7,154
Administrative Expenses:			
Legal	$30,052	$45,079	$75,131
Office Rent	$30,275	$45,413	$75,688
Insurance	$10,408	$15,611	$26,019
Employee benefits	$26,483	$39,725	$66,208
Payroll taxes	$3,821	$5,731	$9,552
Other taxes	$9,815	$14,723	$24,538
Depreciation/auto leasing/other	$27,383	$41,075	$68,458
Interest	$16,314	$24,471	$40,785
Dues and subscriptions	$4,450	$6,675	$11,125
Salaries	$12,164	$18,245	$30,409
Accounting/professional fees	$43,071	$64,607	$107,678
Bookkeeping and administration	$9,400	$14,100	$23,500
Other	$9,427	$14,140	$23,567
Total recognizable	$380,048	$719,509	$1,099,557
Adjustments:			
Other Pilot Costs:			
Pilotage Subsistence/Travel	($1,338)	($2,533)	($3,871)
Pilot Boat and Dispatch Expenses:			
Pilot boat expense	$2,907	$5,504	$8,411
Administrative Expenses:			
Legal	($4,915)	($9,305)	($14,220)
Employee benefits	$1,177	$2,228	$3,405
Other taxes	($238)	($450)	($688)
Depreciation/auto leasing/other	$2,398	$4,540	$6,938
Interest	($10,379)	($19,649)	($30,028)
Dues and subscriptions	($3,807)	($7,208)	($11,015)
Salaries	$417	$789	$1,206
Other	($833)	($1,577)	($2,410)
Total adjustments	($14,611)	($27,661)	($42,272)
Total Expenses	$365,437	$691,848	$1,057,285

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2009	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Pilot Costs:				
Pilot subsistence/travel	$144,081	$75,501	$95,005	$314,587
License insurance	$10,577	$5,543	$6,975	$23,095
Other	$1,025	$537	$675	$2,237
Pilot Boat and Dispatch Expenses:				
Pilot boat costs	$156,031	$81,763	$102,885	$340,679
Dispatch expense	$46,365	$24,296	$30,572	$101,233
Payroll taxes	$5,846	$3,064	$3,855	$12,765
Administrative Expenses:				
Legal	$16,462	$8,626	$10,855	$35,943
Office Rent	$4,534	$2,376	$2,990	$9,900
Insurance	$6,730	$3,527	$4,438	$14,695
Employee benefits	$50,668	$26,551	$33,410	$110,629
Payroll taxes	$4,774	$2,502	$3,148	$10,424
Other taxes	$11,599	$6,078	$7,648	$25,325
Depreciation/auto leasing	$17,396	$9,116	$11,471	$37,983
Interest	$2,417	$1,267	$1,594	$5,278
Dues and subscriptions	$15,594	$8,172	$10,283	$34,049

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2009	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total
Utilities	$15,182	$7,956	$10,011	$33,149
Salaries	$35,110	$18,398	$23,151	$76,659
Accounting/professional fees	$8,588	$4,500	$5,663	$18,751
Other	$6,852	$3,591	$4,518	$14,961
Total Recognizable	$559,831	$293,364	$369,147	$1,222,342
Adjustments:				
Other Pilot Costs:				
Pilotage Subsistence/Travel	($1,102)	($578)	($727)	($2,407)
Payroll taxes	$28,842	$15,114	$19,018	$62,973
Other	($196)	($103)	($129)	($428)
Pilot Boat and Dispatch Expenses:				
Dispatch costs	($3,367)	($1,764)	($2,220)	($7,352)
Administrative Expenses:				
Legal	($1,447)	($758)	($954)	($3,159)
Employee benefits	($1,380)	($723)	($910)	($3,013)
Depreciation/auto leasing/other	$599	$314	$395	$1,307
Dues and subscriptions	($15,594)	($8,172)	($10,283)	($34,049)
Other	($528)	($277)	($348)	($1,153)
Total Adjustments	$5,825	$3,053	$3,841	$12,719
Total Expenses	$565,656	$296,417	$372,988	$1,235,061

Step 1.C: Adjustment for Inflation or Deflation. In this sub-step we project rates of inflation or deflation for the succeeding navigation season. Because we used 2009 financial information, the "succeeding navigation season" for this ratemaking is 2010. We based our inflation adjustment of 2 percent on the 2010 change in the Consumer Price Index (CPI) for the North Central Region of the United States, which can be found at: *http://www.bls.gov/xg_shells/ro5xg01.htm.* This adjustment appears in Tables 5 through 7.

TABLE 5—INFLATION ADJUSTMENT, DISTRICT ONE

Reported expenses for 2009		Area 1 St. Lawrence River		Area 2 Lake Ontario		Total
Total Expenses		$442,835		$348,772		$791,607
2010 change in the Consumer Price Index (CPI) for the North Central Region of the United States	×	.02	×	.02	×	.02
Inflation Adjustment	=	$8,857	=	$6,975	=	$15,832

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO

Reported expenses for 2009		Area 4 Lake Erie		Area 5 Southeast shoal to Port Huron, MI		Total
Total Expenses		$365,437		$691,848		$1,057,285
2010 change in the Consumer Price Index (CPI) for the North Central Region of the United States	×	.02	×	.02	×	.02
Inflation Adjustment	=	$7,309	=	$13,837	=	$21,146

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE

Reported expenses for 2009		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Total Expenses		$565,656		$296,417		$372,988		$1,235,061
2010 change in the Consumer Price Index (CPI) for the North Central Region of the United States	×	.02	×	.02	×	.02	×	.02

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE—Continued

Reported expenses for 2009		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Inflation Adjustment	=	$11,313	=	$5,928	=	$7,460	=	$24,701

Step 1.D: Projection of Operating Expenses. The final sub-step of Step 1 is to project the operating expenses for each pilotage area, on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection. Because we are not now aware of any such circumstances, the projected operating expenses are based exclusively on the calculations from sub-steps 1.A through 1.C. Tables 8 through 10 show these projections.

TABLE 8—PROJECTED OPERATING EXPENSES, DISTRICT ONE

Reported expenses for 2009		Area 1 St. Lawrence River		Area 2 Lake Ontario		Total
Total Expenses		$442,835		$348,772		$791,607
Inflation Adjustment 2%	+	$8,857	+	$6,975	+	$15,832
Total projected expenses for 2012 pilotage season	=	$451,691	=	$355,748	=	$807,439

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO

Reported Expenses for 2009		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Total Expenses		$365,437		$691,848		$1,057,285
Inflation Adjustment 2%	+	$7,309	+	$13,837	+	$21,146
Total projected expenses for 2012 pilotage season	=	$372,746	=	$705,685	=	$1,078,431

TABLE 10—PROJECTED OPERATING EXPENSES, DISTRICT THREE

Reported Expenses for 2009		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Total Expenses		$565,656		$296,417		$372,988		$1,235,061
Inflation Adjustment 2%	+	$11,313	+	$5,928	+	$7,460	+	$24,701
Total projected expenses for 2012 pilotage season	=	$576,969	=	$302,345	=	$380,448	=	$1,259,762

Step 2: Projection of Target Pilot Compensation. In Step 2, we project the annual amount of target pilot compensation that pilotage rates should provide in each area. These projections are based on our latest information on the conditions that will prevail in 2012.

Step 2.A: Determination of Target Rate of Compensation. We first explained the methodology we have consistently used for this step in the interim rule for our last Appendix A ratemaking (68 FR 69564 at 69571 col. 3; December 12, 2003), and most recently restated this explanation in our 2011 Appendix C final rule (76 FR 6351 at 6354 col. 3; February 4, 2011). Target pilot compensation for pilots in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Compensation is determined based on the most current union contracts and includes wages and benefits received by first mates. We calculate target pilot compensation for pilots on designated waters by multiplying the average first mates' wages by 150 percent and then adding the average first mates' benefits.

The most current union contracts available to us are American Maritime Officers Union (AMOU) contracts with three U.S. companies engaged in Great Lakes shipping. There are two separate AMOU contracts available—we refer to them as Agreements A and B and apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Agreements A and B both expire on July 31, 2011 and AMOU does not expect to conclude an agreement on new contracts in time for us to incorporate them in this ratemaking. However, we can project based on past contract increases and on the current contracts that any new contracts would provide for annual 3 percent wage increases. Under Agreement A, we project that the daily wage rate would increase from $278.73 to $287.09. Under Agreement B, the daily wage rate would increase from $343.59 to $353.90.

Because we are interested in annual compensation, we must convert these daily rates. Agreements A and B both use monthly multipliers to convert daily rates into monthly figures that represent actual working days and vacation, holiday, weekend, or bonus days. The monthly multiplier for Agreement A is 54.5 days and the monthly multiplier for Agreement B is 49.5 days. We multiply the monthly figures by 9, which represents the average length (in months) of the Great Lakes shipping season. Table 11 shows our calculations.

TABLE 11—PROJECTED WAGE COMPONENTS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
$287.09 daily rate × 54.5 days	$15,646	$23,470
Monthly total × 9 months = total wages	140,818	211,226
Agreement B:		
$353.90 daily rate × 49.5 days	17,518	26,277
Monthly total × 9 months = total wages	157,662	236,494

Based on increases over the 5-year history of the current contracts, we project that both Agreements A and B will increase their health benefits contributions and leave 401K-plan and pension contributions unchanged. On average, health benefits contribution rates have increased 10 percent annually. Thus, we project that both Agreements A and B will increase this benefit from $97.64 to $107.40 per day. The multiplier that both agreements use to calculate monthly benefits from daily rates, is currently 45.5 days, and we project that will remain unchanged. We use a 9-month multiplier to calculate the annual value of these benefits. Table 12 shows our calculations.

TABLE 12—PROJECTED BENEFITS COMPONENTS

Monthly component	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
Employer contribution, 401K plan (Monthly wages × 5%)	$782.32	$1,173.48
Pension = $33.35 × 45.5 days	1,517.43	1,517.43
Health = $107.40 × 45.5 days	4,886.70	4,886.70
Monthly total benefits	7,186.45	7,577.61
Monthly total benefits × 9 months	64,678	68,198
Agreement B:		
Employer contribution, 401K plan (Monthly wages × 5%)	875.90	1,313.85
Pension = $43.55 × 45.5 days	1,981.53	1,981.53
Health = $107.40 × 45.5 days	4,886.70	4,886.70
Monthly total benefits	7,744.13	8,182.08
Monthly total benefits × 9 months	69,697	73,639

Table 13 combines our projected wage and benefit components of annual target pilot compensation.

TABLE 13—PROJECTED WAGE AND BENEFITS COMPONENTS, COMBINED

	Pilots on undesignated waters	Pilots on designated waters
Agreement A:		
Wages	$140,818	$211,226
Benefits	64,678	68,198
Total	205,496	279,425
Agreement B:		
Wages	157,662	236,494
Benefits	69,697	73,639
Total	227,360	310,132

Agreements A and B affect three companies. Of the tonnage operating under those three companies, approximately 30 percent operates under Agreement A and approximately 70 percent operates under Agreement B. Table 14 provides detail.

TABLE 14—SHIPPING TONNAGE APPORTIONED BY CONTRACT

Company	Agreement A	Agreement B
American Steamship Company		815,600
Mittal Steel USA, Inc		38,826
Key Lakes, Inc	361,385	
Total tonnage, each agreement	361,385	854,426
Percent tonnage, each agreement	361,395 ÷ 1,215,811 = 29.7238%	854,426 ÷ 1,215,811 = 70.2962%

We use the percentages from Table 14 to apportion the projected wage and benefit components from Table 13. This gives us a single tonnage-weighted set of figures. Table 15 shows our calculations.

TABLE 15—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS

		Undesignated waters		Designated waters
Agreement A:				
Total wages and benefits		$205,496		$279,425
Percent tonnage	×	29.7238%	×	29.7238%
Total	=	$61,081	=	$83,056
Agreement B:				
Total wages and benefits		$227,360		$310,132
Percent tonnage	×	70.2762%	×	70.2762%
Total	=	$159,780	=	$217,949
Projected Target Rate of Compensation:				
Agreement A total weighted average wages and benefits		$61,081		$83,056
Agreement B total weighted average wages and benefits	+	$159,780	+	$217,949
Total	=	$220,861	=	$301,005

Step 2.B: Determination of Number of Pilots Needed. Subject to adjustment by the Coast Guard Director of Great Lakes Pilotage to ensure uninterrupted service or for other reasonable circumstances, we determine the number of pilots needed for ratemaking purposes in each area by dividing projected bridge hours for each area, by either 1,000 (designated waters) or 1,800 (undesignated waters). We round the mathematical results and express our determination as whole pilots.

''Bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service,'' 46 CFR part 404, Appendix A, Step 2.B(1). For that reason and as we explained most recently in the 2011 ratemaking's final rule, we do not include, and never have included, pilot delay or detention in calculating bridge hours. See 76 FR 6351 at 6352 col. 3 (February 4, 2011). Projected bridge hours are based on the vessel traffic that pilots are expected to serve. We use historical data, input from the pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services for the coming year.

In our 2011 final rule, we determined that 38 pilots would be needed for ratemaking purposes. We have determined that 38 remains the proper number to use for ratemaking purposes in 2012. This includes 5 pilots in Area 2, where rounding up alone would result in only 4 pilots. For the same reasons we explained at length in the final rule for the 2008 ratemaking, 74 FR 220 at 221–22 (January 5, 2009), we have determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 16 shows the bridge hours we project will be needed for each area and our calculations to determine the number of whole pilots needed for ratemaking purposes.

TABLE 16—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2012 bridge hours		Divided by 1,000 (designated waters) or 1,800 (undesignated waters)		Calculated value of pilot demand	Pilots needed (total = 38)
AREA 1 (Designated Waters)	5,114	÷	1,000	=	5.114	6
AREA 2 (Undesignated Waters)	5,401	÷	1,800	=	3.001	5
AREA 4 (Undesignated Waters)	6,680	÷	1,800	=	3.711	4
AREA 5 (Designated Waters)	5,002	÷	1,000	=	5.002	6
AREA 6 (Undesignated Waters)	11,187	÷	1,800	=	6.215	7

TABLE 16—NUMBER OF PILOTS NEEDED—Continued

Pilotage area	Projected 2012 bridge hours		Divided by 1,000 (designated waters) or 1,800 (undesignated waters)		Calculated value of pilot demand	Pilots needed (total = 38)
AREA 7 (Designated Waters)	3,160	÷	1,000	=	3.160	4
AREA 8 (Undesignated Waters)	9,353	÷	1,800	=	5.196	6

Step 2.C: Projection of Target Pilot Compensation. In Table 17 we project total target pilot compensation separately for each area, by multiplying the number of pilots needed in each area, as shown in Table 16, by the target pilot compensation shown in Table 15.

TABLE 17—PROJECTION OF TARGET PILOT COMPENSATION BY AREA

Pilotage area	Pilots needed (total = 38)		Target rate of pilot compensation		Projected target pilot compensation
AREA 1 (Designated Waters)	6	×	$301,005	=	$1,806,030
AREA 2 (Undesignated Waters)	5	×	220,861	=	1,104,304
AREA 4 (Undesignated Waters)	4	×	220,861	=	883,443
AREA 5 (Designated Waters)	6	×	301,005	=	1,806,030
AREA 6 (Undesignated Waters)	7	×	220,861	=	1,546,026
AREA 7 (Designated Waters)	4	×	301,005	=	1,204,020
AREA 8 (Undesignated Waters)	6	×	220,861	=	1,325,165

Step 3 and 3.A: Projection of Revenue. In this step, we project the revenue that would be received in 2012 if demand for pilotage services matches the bridge hours we projected in Table 16, and 2011 pilotage rates were left unchanged. Table 18 shows this calculation.

TABLE 18—PROJECTION OF REVENUE BY AREA

Pilotage area	Projected 2012 bridge hours		2011 pilotage rates		Revenue projection for 2012
AREA 1 (Designated Waters)	5,114	×	$451.38	=	$2,308,357
AREA 2 (Undesignated Waters)	5,401	×	298.98	=	1,614,791
AREA 4 (Undesignated Waters)	6,680	×	196.19	=	1,310,549
AREA 5 (Designated Waters)	5,002	×	519.89	=	2,600,490
AREA 6 (Undesignated Waters)	11,187	×	199.12	=	2,227,555
AREA 7 (Designated Waters)	3,160	×	495.54	=	1,565,906
AREA 8 (Undesignated Waters)	9,353	×	193.72	=	1,811,863
Total					13,439,512

Step 4: Calculation of Investment Base. This step calculates each association's investment base, the recognized capital investment in the assets employed by the association required to support pilotage operations. This step uses a formula set out in 46 CFR part 404, Appendix B. The first part of the formula identifies each association's total sources of funds. Tables 19 through 21 follow the formula up to that point.

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT ONE

		Area 1		Area 2
Recognized Assets:				
Total Current Assets		$233,316		$174,705
Total Current Liabilities	−	20,091	−	15,044
Current Notes Payable	+	0	+	0
Total Property and Equipment (NET)	+	0	+	0
Land	−	0	−	0
Total Other Assets	+	0	+	0
Total Recognized Assets	=	213,225	=	159,661
Non-Recognized Assets:				
Total Investments and Special Funds	+	0	+	0

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT ONE—Continued

		Area 1		Area 2
Total Non-Recognized Assets	=	0	=	0
Total Assets:				
Total Recognized Assets		213,225		159,661
Total Non-Recognized Assets	+	0	+	0
Total Assets	=	213,225	=	159,661
Recognized Sources of Funds:				
Total Stockholder Equity		213,225		159,661
Long-Term Debt	+	0	+	0
Current Notes Payable	+	0	+	0
Advances from Affiliated Companies	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources	=	213,225	=	159,661
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources	=	0	=	0
Total Sources of Funds:				
Total Recognized Sources		213,225		159,661
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds	=	213,225	=	159,661

TABLE 20—TOTAL SOURCES OF FUNDS, DISTRICT TWO

		Area 4		Area 5
Recognized Assets:				
Total Current Assets		$228,212		$515,150
Total Current Liabilities	−	214,412	−	484,000
Current Notes Payable	+	23,063	+	52,061
Total Property and Equipment (NET)	+	321,550	+	725,847
Land	−	269,122	−	607,500
Total Other Assets	+	0	+	0
Total Recognized Assets	=	89,290	=	201,559
Non-Recognized Assets:				
Total Investments and Special Funds	+	0	+	0
Total Non-Recognized Assets	=	0	=	0
Total Assets:				
Total Recognized Assets		89,290		201,559
Total Non-Recognized Assets	+	0	+	0
Total Assets	=	89,290	=	201,559
Recognized Sources of Funds:				
Total Stockholder Equity		53,061		119,778
Long-Term Debt	+	282,288	+	637,220
Current Notes Payable	+	23,063	+	52,061
Advances from Affiliated Companies	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources	=	358,413	=	809,058
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources	=	0	=	0
Total Sources of Funds:				
Total Recognized Sources		358,413		809,058
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds	=	358,413	=	809,058

TABLE 21—TOTAL SOURCES OF FUNDS, DISTRICT THREE

		Area 6		Area 7		Area 8
Recognized Assets:						
Total Current Assets		$439,799		230,463		289,999
Total Current Liabilities	−	$61,507	−	32,231	−	40,557
Current Notes Payable	+	$13,525	+	7,087	+	8,918
Total Property and Equipment (NET)	+	$42,019	+	22,019	+	27,707
Land	−	$0	−	0	−	0
Total Other Assets	+	$343	+	180	+	227
Total Recognized Assets	=	$434,180	=	227,518	=	286,293
Non-Recognized Assets:						
Total Investments and Special Funds	+	0	+	0	+	0
Total Non-Recognized Assets	=	0	=	0	=	0
Total Assets:						
Total Recognized Assets		434,180		227,518		286,293
Total Non-Recognized Assets	+	0	+	0	+	0
Total Assets	=	434,180	=	227,518	=	286,293
Recognized Sources of Funds:						
Total Stockholder Equity		417,721		218,893		275,441
Long-Term Debt	+	2,934	+	1,537	+	1,935
Current Notes Payable	+	13,525	+	7,087	+	8,918
Advances from Affiliated Companies	+	0	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0	+	0
Total Recognized Sources	=	434,180	=	227,518	=	286,293
Non-Recognized Sources of Funds:						
Pension Liability		0		0		0
Other Non-Current Liabilities	+	0	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0	+	0
Other Deferred Credits	+	0	+	0	+	0
Total Non-Recognized Sources	=	0	=	0	=	0
Total Sources of Funds:						
Total Recognized Sources		434,180		227,518		286,293
Total Non-Recognized Sources	+	0	+	0	+	0
Total Sources of Funds	=	434,180	=	227,518	=	286,293

Tables 19–21 relate to the second part of the formula for calculating the investment base. The second part establishes a ratio between recognized sources of funds and total sources of funds. Since no non-recognized sources of funds (sources we do not recognize as required to support pilotage operations) exist for any of the pilot associations for this year's rulemaking, the ratio between recognized sources of funds and total sources of funds is ''1:1'' (or a multiplier of ''1'') in all cases. Table 22 applies the multiplier of ''1,'' and shows that the investment base for each association equals its total recognized assets. Table 22 also expresses these results by area, because area results will be needed in subsequent steps.

TABLE 22—INVESTMENT BASE BY AREA AND DISTRICT

District	Area	Total recognized assets ($)	Recognized sources of funds ($)	Total sources of funds ($)	Multiplier (ratio of recognized to total sources)	Investment base ($) [1]
One	1	213,225	213,225	213,225	1	213,225
	2	159,661	159,661	159,661	1	159,661
Total						372,886
Two [2]	4	89,290	358,413	358,413	1	89,290
	5	201,559	809,058	809,058	1	201,559
Total						290,849
Three	6	434,180	434,180	434,180	1	434,180
	7	227,518	227,518	227,518	1	227,518
	8	286,293	286,293	286,293	1	286,293
Total						947,991

[1] **Note:** ''Investment base'' = ''Total recognized assets'' × ''Multiplier (ratio of recognized to total sources)''

[2] **Note:** The pilot associations that provide pilotage services in Districts One and Three operate as partnerships. The pilot association that provides pilotage service for District Two operates as a corporation. Per table 20, Total Recognized Assets do not equal Total Sources of Funds due to the level of long-term debt in District Two.

Step 5: Determination of Target Rate of Return. We determine a market-equivalent return on investment (ROI) that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the preceding year's average annual rate of return for new issues of high-grade corporate securities.

For 2010, the year preceding this year, the allowed ROI was a little more than 4.94 percent, based on the average rate of return that year on Moody's AAA corporate bonds which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

Step 6: Adjustment Determination. The first sub-step in the adjustment determination requires an initial calculation, applying a formula described in Appendix A. The formula uses the results from Steps 1, 2, 3, and 4 to project the ROI that can be expected in each area, if no further adjustments are made. This calculation is shown in Tables 23 through 25.

TABLE 23—PROJECTED ROI, AREAS IN DISTRICT ONE

		Area 1		Area 2
Revenue (from step 3)	+	$2,308,357	+	$1,614,791
Operating Expenses (from step 1)	–	$451,691	–	$355,748
Pilot Compensation (from step 2)	–	$1,806,030	–	$1,104,304
Operating Profit/(Loss)	=	$50,636	=	$154,739
Interest Expense (from audits)	–	$0	–	$0
Earnings Before Tax	=	$50,636	=	$154,739
Federal Tax Allowance	–	$0	–	$0
Net Income	=	$50,636	=	$154,739
Return Element (Net Income + Interest)		$50,636		$154,739
Investment Base (from step 4)	÷	$213,225	÷	$159,661
Projected Return on Investment	=	0.24	=	0.97

TABLE 24—PROJECTED ROI, AREAS IN DISTRICT TWO

		Area 4		Area 5
Revenue (from step 3)	+	$1,310,549	+	$2,600,490
Operating Expenses (from step 1)	–	$372,746	–	$705,685
Pilot Compensation (from step 2)	–	$883,443	–	$1,806,030
Operating Profit/(Loss)	=	$54,360	=	$88,775
Interest Expense (from audits)	–	$3,302	–	$7,455
Earnings Before Tax	=	$51,058	=	$81,321
Federal Tax Allowance	–	$2,210	–	$4,990
Net Income	=	$48,847	=	$76,331
Return Element (Net Income + Interest)		$52,150		$83,786
Investment Base (from step 4)	÷	$89,290	÷	$201,559
Projected Return on Investment	=	0.58	=	0.42

TABLE 25—PROJECTED ROI, AREAS IN DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue (from step 3)	+	$2,227,555	+	$1,565,906	+	$1,811,863
Operating Expenses (from step 1)	–	$576,969	–	$302,345	–	$380,448
Pilot Compensation (from step 2)	–	$1,546,026	–	$1,204,020	–	$1,325,165
Operating Profit/(Loss)	=	$104,560	=	$59,542	=	$106,250
Interest Expense (from audits)	–	$2,417	–	$1,267	–	$1,594
Earnings Before Tax	=	$102,143	=	$58,275	=	$104,656
Federal Tax Allowance	–	$0	–	$0	–	$0
Net Income	=	$102,143	=	$58,275	=	$104,656
Return Element (Net Income + Interest)		$104,560		$59,542		$106,250
Investment Base (from step 4)	÷	$434,180	÷	$227,518	÷	$286,293
Projected Return on Investment	=	0.24	=	0.26	=	0.37

The second sub-step required for Step 6 compares the results of Tables 23 through 25 with the target ROI (approximately 4.94 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is necessary. Table 26 shows this comparison for each area.

TABLE 26—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA[1]

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected return on investment	0.237	0.969	0.584	0.416	0.241	0.262	0.371
Target return on investment	0.049	0.049	0.049	0.049	0.049	0.049	0.049
Difference in return on investment	0.188	0.920	0.535	0.366	0.191	0.212	0.322

[1] **Note:** Decimalization and rounding of the target ROI affects the display in this table but does not affect our calculations, which are based on the actual figure.

Because Table 26 shows a significant difference between the projected and target ROIs, an adjustment to the base pilotage rates is necessary. Step 6 now requires us to determine the pilotage revenues that are needed to make the target return on investment equal to the projected return on investment. This calculation is shown in Table 27. It adjusts the investment base we used in Step 4, multiplying it by the target ROI from Step 5, and applies the result to the operating expenses and target pilot compensation determined in Steps 1 and 2.

TABLE 27—REVENUE NEEDED TO RECOVER TARGET ROI, BY AREA

Pilotage area	Operating expenses (step 1)		Target pilot compensation (step 2)		Investment base (step 4) × 4.94% (target ROI step 5)		Federal tax allowance		Revenue needed
AREA 1 (Designated Waters)	$451,691	+	$1,806,030	+	$10,540	+		=	$2,268,262
AREA 2 (Undesignated Waters)	355,748	+	1,104,304	+	7,893	+		=	1,467,944
AREA 4 (Undesignated Waters)	372,746	+	883,443	+	4,414	+	$2,210	=	1,262,813
AREA 5 (Designated Waters)	705,685	+	1,806,030	+	9,964	+	4,990	=	2,526,668
AREA 6 (Undesignated Waters)	576,969	+	1,546,026	+	21,463	+		=	2,144,458
AREA 7 (Designated Waters)	302,345	+	1,204,020	+	11,247	+		=	1,517,612
AREA 8 (Undesignated Waters)	380,448	+	1,325,165	+	14,152	+		=	1,719,765
Total	3,145,632	+	9,675,016.97	+	79,673	+	7,200	=	12,907,522

The ''revenue needed'' column of Table 27 is less than the revenue we projected in Table 18. For purposes of transparency, we verify Table 27's calculations by rerunning the first part of Step 6, using the ''revenue needed'' from Table 27 instead of the Table 18 revenue projections we used in Tables 23 through 25. Tables 28 through 30 show that attaining the Table 27 ''revenue needed'' is sufficient to recover target ROI.

TABLE 28—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT ONE

		Area 1		Area 2
Revenue Needed	+	$2,268,262	+	$1,467,944
Operating Expenses (from step 1)	−	$451,691	−	$355,748
Pilot Compensation (from step 2)	−	$1,806,030	−	$1,104,304
Operating Profit/(Loss)	=	$10,540	=	$7,893
Interest Expense (from audits)	−	$0	−	$0
Earnings Before Tax	=	$10,540	=	$7,893
Federal Tax Allowance	−	$0	−	$0
Net Income	=	$10,540	=	$7,893
Return Element (Net Income + Interest)		$10,540		$7,893
Investment Base (from step 4)	÷	$213,225	÷	$159,661
Return on Investment	=	0.0494	=	0.0494

TABLE 29—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO

		Area 4		Area 5
Revenue Needed	+	$1,262,813	+	$2,526,668
Operating Expenses (from step 1)	−	$372,746	−	$705,685
Pilot Compensation (from step 2)	−	$883,443	−	$1,806,030
Operating Profit/(Loss)	=	$6,624	=	$14,953
Interest Expense (from audits)	−	$3,302	−	$7,455

TABLE 29—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO—Continued

		Area 4		Area 5
Earnings Before Tax	=	$3,322	=	$7,499
Federal Tax Allowance	–	$2,210	–	$4,990
Net Income	=	$1,112	=	$2,509
Return Element (Net Income + Interest)		$4,414		$9,964
Investment Base (from step 4)	÷	$89,290	÷	$201,559
Return on Investment	=	0.0494	=	0.0494

TABLE 30—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue Needed	+	$2,144,458	+	$1,517,612	+	$1,719,765
Operating Expenses (from step 1)	–	$576,969	–	$302,345	–	$380,448
Pilot Compensation (from step 2)	–	$1,546,026	–	$1,204,020	–	$1,325,165
Operating Profit/(Loss)	=	$21,463	=	$11,247	=	$14,152
Interest Expense (from audits)	–	$2,417	–	$1,267	–	$1,594
Earnings Before Tax	=	$19,046	=	$9,980	=	$12,558
Federal Tax Allowance	–	$0	–	$0	–	$0
Net Income	=	$19,046	=	$9,980	=	$12,558
Return Element (Net Income + Interest)		$21,463		$11,247		$14,152
Investment Base (from step 4)	÷	$434,180	÷	$227,518	÷	$286,293
Return on Investment	=	0.0494	=	0.0494	=	0.0494

Step 7: Adjustment of Pilotage Rates. Finally, and subject to negotiation with Canada or adjustment for other supportable circumstances, we calculate rate adjustments by dividing the Step 6 revenue needed (Table 27) by the Step 3 revenue projection (Table 18), to give us a rate multiplier for each area. Tables 31 through 33 show these calculations.

TABLE 31—RATE MULTIPLIER, AREAS IN DISTRICT ONE

Ratemaking projections		Area 1 St. Lawrence River		Area 2 Lake Ontario
Revenue Needed (from step 6)		$2,268,262		$1,467,944
Revenue (from step 3)	÷	$2,308,357	÷	$1,614,791
Rate Multiplier	=	0.983	=	0.909

TABLE 32—RATE MULTIPLIER, AREAS IN DISTRICT TWO

Ratemaking projections		Area 4 Lake Erie		Area 5 Southeast shoal to Port Huron, MI
Revenue Needed (from step 6)		$1,262,813		$2,526,668
Revenue (from step 3)	÷	$1,310,549	÷	$2,600,490
Rate Multiplier	=	0.964	=	0.972

TABLE 33—RATE MULTIPLIER, AREAS IN DISTRICT THREE

Ratemaking projections		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior
Revenue Needed (from step 6)		$2,144,458		$1,517,612		$1,719,765
Revenue (from step 3)	÷	$2,227,555	÷	$1,565,906	÷	$1,811,863
Rate Multiplier	=	0.963	=	0.969	=	0.949

We calculate a rate multiplier for adjusting the basic rates and charges described in 46 CFR 401.420 and 401.428 and applicable in all Areas. We divide total revenue needed (Step 6, Table 27) by total projected revenue (Step 3 & 3A, Table 18). Our proposed rate changes for 46 CFR 401.420 and 401.428 reflect the multiplication of the rates we established for those sections in our 2011 final rule, by the rate multiplier shown as the result of our calculation in Table 34.

TABLE 34—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428

Ratemaking projections		
Total revenue needed (from step 6)		$12,907,522
Total revenue (from step 3)	÷	$13,439,512
Rate Multiplier	=	0.960

We multiply the existing rates we established in our 2011 final rule by the rate multipliers from Tables 31 through 33, to calculate the Area by Area rate changes we propose for 2012. Tables 35 through 37 show these calculations.

TABLE 35—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT ONE

	2011 Rate		Rate multiplier		Adjusted rate for 2012
Area 1—St. Lawrence River:					
Basic Pilotage	$18.36/km, 32.50/mi	×	0.983	=	$18.04/km, 31.94
Each lock transited	407	×	0.983	=	400
Harbor movage	1,333	×	0.983	=	1,310
Minimum basic rate, St. Lawrence River	889	×	0.983	=	874
Maximum rate, through trip	3,901	×	0.983	=	3,833
Area 2—Lake Ontario:					
6 hour period	893	×	0.909	=	812
Docking or undocking	852	×	0.909	=	775

TABLE 36—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

	2011 Rate		Rate multiplier		Adjusted rate for 2012
Area 4—Lake Erie:					
6 hour period	$791	×	0.964	=	$762
Docking or undocking	609	×	0.964	=	587
Any point on Niagara River below Black Rock Lock	1,554	×	0.964	=	1,497
Area 5—Southeast Shoal to Port Huron, MI between any point on or in:					
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	3,102	×	0.972	=	3,014
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	2,389	×	0.972	=	2,321
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,162	×	0.972	=	4,044
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,821	×	0.972	=	4,684
Port Huron Change Point & Detroit River	3,126	×	0.972	=	3,037
Port Huron Change Point & Detroit Pilot Boat	2,432	×	0.972	=	2,363
Port Huron Change Point & St. Clair River	1,729	×	0.972	=	1,680
St. Clair River	1,412	×	0.972	=	1,372
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,162	×	0.972	=	4,044
St. Clair River & Detroit River/Detroit Pilot Boat	3,126	×	0.972	=	3,037
Detroit, Windsor, or Detroit River	1,412	×	0.972	=	1,372
Detroit, Windsor, or Detroit River & Southeast Shoal	2,389	×	0.972	=	2,321
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	3,102	×	0.972	=	3,014
Detroit, Windsor, or Detroit River & St. Clair River	3,126	×	0.972	=	3,037
Detroit Pilot Boat & Southeast Shoal	1,729	×	0.972	=	1,680

TABLE 37—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE

	2011 Rate		Rate iplier		Adjusted rate for 2012
Area 6—Lakes Huron and Michigan:					
6 hour period	$688	×	0.963	=	$662
Docking or undocking	653	×	0.963	=	629
Area 7—St. Mary's River between any point on or in:					
Gros Cap & De Tour	2,650	×	0.969	=	2,568
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	2,650	×	0.969	=	2,568
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & Gros Cap	998	×	0.969	=	967
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	2,221	×	0.969	=	2,153

TABLE 37—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE—Continued

	2011 Rate		Rate iplier		Adjusted rate for 2012
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	998	×	0.969	=	967
Sault Ste. Marie, MI & De Tour	2,221	×	0.969	=	2,153
Sault Ste. Marie, MI & Gros Cap	998	×	0.969	=	967
Harbor movage	998	×	0.969	=	967
Area 8—Lake Superior:					
6 hour period	608	×	0.949	=	577
	$578	x	0.949	=	$549

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 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 both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

A draft Regulatory Assessment follows.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we are adjusting the pilotage rates for the 2012 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment. The rate adjustments in this proposed rule would, if codified, lead to a cost savings in all seven areas and all three districts with an estimated cost savings to shippers of approximately $1 million across all three districts.

The proposed rule would apply the 46 CFR part 404, Appendix A, full ratemaking methodology and decrease Great Lakes pilotage rates, on average, approximately 4 percent overall from the current rates set in the 2011 final rule. The Appendix A methodology is discussed and applied in detail in Part V of this preamble. Among other factors described in Part V, it reflects audited 2009 financial data from the pilotage associations (the most recent year available for auditing), projected association expenses, and regional inflation or deflation. The last full Appendix A ratemaking was concluded in 2006 and used financial data from the 2002 base accounting year. The last annual rate review, conducted under 46 CFR part 404, Appendix C, was completed early in 2011.

In general, we expect an increase in pilotage rates for a certain area to result in additional costs for shippers using pilotage services in that area, while a decrease would result in a cost reduction or savings for shippers in that area. The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The Coast Guard's interpretation is that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this rule, such as recreational boats and vessels only operating within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect the Coast Guard's calculation of the rate and is not a part of our estimated national cost to shippers. Coast Guard sampling of pilot data suggests there are very few U.S. domestic vessels, without registry and operating only in the Great Lakes that voluntarily purchase pilotage services.

We used 2008–2010 vessel arrival data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment to be 204 vessels that journey into the Great Lakes system. These vessels entered the Great Lakes by transiting through or in part of at least one of the three pilotage Districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 204 vessels, there were approximately 319 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2008–2010 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from the District pilotage revenues. These revenues represent the direct and indirect costs (''economic costs'') that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage.

We estimate the additional impact (costs or savings) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs in 2012 based on the 2011 rate adjustment and the total projected revenue needed to cover costs in 2012 as set forth in this proposed rule. Table 38 details additional costs or savings by area and district.

TABLE 38—RATE ADJUSTMENT AND ADDITIONAL IMPACT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	Projected revenue needed in 2011 *	Projected revenue needed in 2012 **	Additional costs or savings of this proposed rule
Area 1	$2,348,516	$2,268,262	($80,255)
Area 2	1,689,246	1,467,944	(221,302)
Total, District One	4,037,763	3,736,206	(301,557)
Area 4	1,436,140	1,262,813	(173,326)
Area 5	2,649,876	2,526,668	(123,208)
Total, District Two	4,086,016	3,789,481	(296,534)
Area 6	2,311,006	2,144,458	(166,548)
Area 7	1,614,974	1,517,612	(97,362)
Area 8	1,904,237	1,719,765	(184,472)
Total, District Three	5,830,218	5,381,835	(448,383)

* These 2011 estimates are detailed in Table 16 of the 2011 final rule (76 FR 6351).
** These 2012 estimates are detailed in Table 27 of this rulemaking.
Some values may not total due to rounding.
''Additional Revenue or Cost of this Rulemaking'' = ''Revenue needed in 2012'' minus; ''Revenue needed in 2011.''

After applying the rate change in this proposed rule, the resulting difference between the projected revenue in 2011 and the projected revenue in 2012 is the annual impact to shippers from this rule. This figure would be equivalent to the total additional payments or savings that shippers would incur for pilotage services from this proposed rule. As discussed earlier, we consider a reduction in payments to be a cost savings.

The impact of the rate adjustment in this proposed rule to shippers varies by area and district. The rate adjustments would lead to a cost savings in all seven areas and all three districts, with affected shippers operating in District One, District Two, and District Three experiencing savings of $302,000, $297,000, and $448,000, respectively (values rounded). To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less depending on the distance and port arrivals of their vessels' trips. However, the additional savings reported above does capture the adjustment the shippers would experience as a result of the rate adjustment in this proposed rule. As Table 38 indicates, shippers operating in all areas would experience an annual savings due to this rulemaking. The overall impact of the proposed rule would be a cost savings to shippers of approximately $1 million across all three districts.

The effects of a rate adjustment on costs and savings vary by year and area. A decrease in projected expenses for individual areas or districts is common in past pilotage rate adjustments. Most recently, in the 2011 ratemaking, District Three experienced a decrease in projected expenses due to an adjustment in bridge hours from the 2010 final rule; that led to a savings for that district and yielded a net savings for the system.

This proposed rulemaking would allow the U.S. Coast Guard to meet the statutory requirements to review the rates for pilotage services on the Great Lakes—ensuring proper pilot compensation.

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 people.

We expect entities affected by the proposed rule would be classified under the North American Industry Classification System (NAICS) code subsector 483—Water Transportation, which includes the following 6-digit NAICS codes for freight transportation: 483111—Deep Sea Freight Transportation, 483113—Coastal and Great Lakes Freight Transportation, and 483211—Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and employing less than 500 employees is considered a small entity.

For the proposed rule, we reviewed recent company size and ownership data from 2008–2010 Coast Guard MISLE data and business revenue and size data provided by publicly available sources such as MANTA and Reference USA. We found that large, mostly foreign-owned, shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees—approximately 65 total employees combined. We expect no adverse impact to these entities from this proposed rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

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 Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies, as well as 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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG–5522), Coast Guard; telephone 202–372–2037, e-mail *Todd.A.Haviland@uscg.mil,* or fax 202–372–1909. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule does not change the burden in the collection currently approved by the Office of Management and Budget under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism because States are expressly prohibited by 46 U.S.C. 9306 from regulating pilotage on the Great Lakes.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This 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.

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 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.

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.

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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This 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 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have 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 environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This proposed rule adjusts rates in accordance with applicable statutory and regulatory mandates. 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 proposes to amend 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

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

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

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

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

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$18.04 per kilometer or $31.94 per mile.[1]
Each Lock Transited	$400.[1]
Harbor Movage	$1,310[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $874, and the maximum basic rate for a through trip is $3,833.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$812
Docking or Undocking	775

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

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

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
Six-Hour Period	$762	$762
Docking or Undocking	587	587
Any Point on the Niagara River Below the Black Rock Lock	N/A	1,497

(b) Area 5 (Designated Waters):

Any point on or in	Southeast shoal	Toledo or any point on Lake Erie west of southeast shoal	Detroit River	Detroit pilot boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,321	$1,372	$3,014	$2,321	N/A
Port Huron Change Point	[1] 4,044	[1] 4,684	3,037	2,363	1,680
St. Clair River	[1] 4,044	N/A	3,037	3,037	1,372
Detroit or Windsor or the Detroit River	2,321	3,014	1,372	N/A	3,037
Detroit Pilot Boat	1,680	2,321	N/A	N/A	3,037

[1] When pilots are not changed at the Detroit Pilot Boat.

4. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges on Lakes Huron, Michigan, and Superior, and the St Mary's River.

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six-Hour Period	$662

Service	Lakes Huron and Michigan
Docking or Undocking	629

(b) Area 7 (Designated Waters):

Area	De tour	Gros cap	Any harbor
Gros Cap	$2,568	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	2,568	$967	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,153	967	N/A
Sault Ste. Marie, MI	2,153	967	N/A
Harbor Movage	N/A	N/A	$967

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$577

Service	Lake Superior
Docking or Undocking	549

§ 401.420 [Amended]

5. Amend § 401.420 as follows:

a. In paragraph (a), remove the text ''$127'' and add, in its place, the text ''$122''; and remove the text ''$1,989'' and add, in its place, the text ''$1,910'';

b. In paragraph (b), remove the text ''$127'' and add, in its place, the text ''$122''; and remove the text ''$1,989'' and add, in its place, the text ''$1,910''; and

c. In paragraph (c)(1), remove the text ''$751'' and add, in its place, the text ''$721''; and in paragraph (c)(3), remove the text ''$127'' and add, in its place, the text ''$122'', and remove the text ''$1,989'' and add, in its place, the text ''$1,910''.

§ 401.428 [Amended]

6. In § 401.428, remove the text ''$766'' and add, in its place, the text ''$736''.

Dated: July 27, 2011.

Dana A. Goward,

Director Marine Transportation Systems Management, U.S. Coast Guard.

[FR Doc. 2011–19746 Filed 8–3–11; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket No. 07–114; GN Docket No. 11–117; WC Docket No. 05–196; FCC 11–107]

Wireless E911 Location Accuracy Requirements; E911 Requirements for IP-Enabled Service Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (the Commission) proposes measures to improve 911 availability and location determination for users of interconnected Voice over Internet Protocol (VoIP) services. First, the Commission considers whether to apply our 911 rules to ''outbound-only'' interconnected VoIP services, *i.e.,* services that support outbound calls to the public switched telephone network (PSTN) but not inbound voice calling from the PSTN. These services, which allow consumers to place IP-based outbound calls to any telephone number, have grown increasingly popular in recent years. The Commission asks whether such services are likely to generate consumer expectations that they will support 911 calling and consider whether to extend to outbound-only interconnected VoIP service providers the same 911 requirements that have applied to other interconnected VoIP service providers since 2005.

The Commission seeks comment on whether our proposal to amend the definition of interconnected VoIP service for 911 purposes has any impact on our interpretation of certain statutes that reference the Commission's existing definition of interconnected VoIP service.

DATES: Submit comments on or before October 3, 2011. Submit reply comments on or before November 2, 2011.

ADDRESSES: You may submit comments, identified by PS Docket No. 07–114; GN Docket No. 11–117; WC Docket No. 05–196, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Attorney Advisor, (202) 418–2413.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking* and *Notice of Proposed Rulemaking* in PS Docket No. 07–114, GN Docket No. 11–117, WC Docket No. 05–196, FCC 11–107, released on July 13, 2011. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, or online at *http://transition.fcc.gov/pshs/services/911-services/.*

I. Second Further Notice of Proposed Rulemaking

A. Applying E911 Rules to Outbound-Only Interconnected VoIP Service Providers

1. *Background.* In 2005, the Commission first asserted regulatory authority over interconnected VoIP service providers for 911 purposes. In the VoIP 911 Order, the Commission defined interconnected VoIP service as a service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the PSTN and to terminate calls to the PSTN. The Commission established requirements for these providers to provide 911 services to their customers. Since the Commission's adoption of these requirements, Congress has codified them and has also given the Commission the discretion to modify them ''from time to time.''

2. In the Location Accuracy NOI, the Commission noted that the Commission's VoIP 911 rules have thus far been limited to providers of interconnected VoIP services as defined above. The Commission also noted, however, that since these rules were adopted, there has been a significant increase in the availability and use of portable VoIP services and applications that do not meet one or more prongs of the interconnected VoIP service definition. In light of the increase in use of these services, the Commission sought comment on several alternatives for expanding the scope of the VoIP 911 rules, including whether 911/E911 obligations should apply to (1) VoIP services that enable users to place outbound calls that terminate on the PSTN but not to receive inbound calls from the PSTN, and (2) VoIP services that enable users to receive inbound calls from the PSTN but not to make outbound calls to the PSTN.

3. *Comments.* In response to the Location Accuracy NOI, a number of public safety entities argue that the Commission should impose 911 obligations on VoIP services that do not meet the current definition of interconnected VoIP service. NENA contends that consumers expect that they will be able to reach 911 from a VoIP telephone. NENA submits that it is ''reasonable for consumers to expect that services which allow outbound calling to the PSTN will properly route calls to 9-1-1.'' Further, Texas 9-1-1 Agencies contends that ''vendors of these services should be required to provide public education materials related to 9-1-1 limitations and work diligently with public safety and access network provider[s] * * * to minimize confusion and potential adverse consequences to their end users.''

4. Some commercial commenters also support the view that changing consumer expectations support extending 911 requirements beyond the scope of VoIP providers covered by the existing rules. AT&T highlights that ''the record suggests that consumers