

if appropriate, will be made in calculating the full rate adjustment. However, we have not made any changes in calculating the partial rate adjustment.

Another comment stated that the Coast Guard should have disallowed any payments by District Two to Erie Leasing, Inc., because that company refused to open up its books for the Coast Guard. The Coast Guard disagrees. There is no basis to deny expenses based upon another company's refusal to open its books, even when the service entity (Erie Leasing) is directly or indirectly related by beneficial ownership to the pilot association.

Some comments expressed the opinion that there is an insufficiency of accountability for continuing education training funds in the three districts. They recommended that training programs submitted by a pilot association and approved by the Coast Guard should be published as a part of this docket so that industry can assure itself that this money is spent appropriately and that the training plan meets "certain criteria." They also suggested that a third party should hold the training funds instead of the pilot associations. The Coast Guard disagrees. The public docket used for this rulemaking is not an appropriate place for pilot associations to file their training plans. The Coast Guard does not see any benefit to placing the training funds in the hands of third parties, nor could such an action be properly included within the scope of this rulemaking.

#### *Target Pilot Compensation Issues*

With respect to determining target pilot compensation, several comments, including St. Lawrence Seaway Development Corporation, stated that the monthly multiplier should be reduced from its current level of 54 days to either 44 or 45 days to take into consideration vacation time actually taken by the pilots. They stated that pilots actually take vacation days and paying them for not doing so is a form of double dipping that makes a 44 or 45-day number more appropriate. For purposes of this interim rule, the Coast Guard has used a multiplier of 44 days. The Coast Guard is still reviewing this issue and a final determination on the appropriate multiplier will be made before we calculate the full rate adjustment. A proposed full rate adjustment will be subject to notice and comment in an SNPRM before implementation.

Numerous comments stated that the Coast Guard in the NPRM inappropriately increased the number of

pilots needed. Some comments focused on the two pilots authorized for District One and the one pilot authorized for District Two. Another comment stated that the Coast Guard had made a mistake by rounding down the number of pilots in District Three, Area 7, to four pilots, and rounding down the total number of pilots required in the undesignated waters of Areas 6 and 8 to 17. The Coast Guard disagrees. The Coast Guard may increase or decrease the number of pilots authorized in the Districts as circumstances warrant. The number of pilots needed by each District is calculated each time the Coast Guard adjusts pilotage rates. The calculation shows the number of pilots needed in each Area to accommodate the projected vessel traffic. In the NPRM, where the calculated number was fractional, the Coast Guard rounded up or down to reflect "a whole person." For purposes of this interim rule, the Coast Guard has not rounded up or down, but has used the actual calculated number, even if that number is fractional. For purposes of the interim rule, and for the sake of precision and accuracy in the computation, the Coast Guard has not rounded the fractionalized number of pilots required. It is up to each Association to determine how many pilots to employ to meet the actual shipping demand.

The Coast Guard will continue to review this step in the calculation and when the Coast Guard's review of the Bridge Hour Study is completed, we should have clearer guidance on this calculation.

#### *Revenue Issues*

*Accounts receivable.* One comment stated that the calculation of revenue was incorrect because it did not include accounts receivable. Before calculating a full rate adjustment, the Coast Guard will address inclusion of accounts receivable as part of revenues.

#### *Target Pilot Compensation*

Several comments stated that the Coast Guard had miscalculated the target pilot compensation. These comments stated that the target pilot compensation should be calculated by first adding all pilot wages and benefits together and then multiplying by 1.5, which is the multiplier for pilots working in designated waters. The Coast Guard disagrees. The Coast Guard has always calculated target pilot compensation in the same manner. During the first ratemaking under this methodology, in response to comments which provided detailed and persuasive information, including W-2 tax information, showing that the most

accurate way to approximate the total compensation package of a master on the Great Lakes, under the union contract, is to take wages and multiply by 1.5 and then add benefits. See Seaway Regulations and Rules: Great Lakes Pilotage Rates, 62 FR 5917, 5920 (February 10, 1997). This interpretation was recently upheld. See *Lake Pilots Assoc., Inc. v. United States Coast Guard*, Civil Action No. 01-1721 (RBW) (D.D.C. April 4, 2003).

Other comments stated that the Coast Guard does not take into consideration all of the benefits received when calculating the total compensation package. One area of particular concern is credit for vacation pay because it is paid on a 1 for 2 basis. The Coast Guard will address this issue when proposing its full rate adjustment, but has not changed the calculation for the partial rate adjustment.

A number of comments from District Two discussed the independent accountant's treatment of reimbursed expenses (workers' compensation dividends), unrecognized expenses (a portion of the pilot boat leases), donations, business promotion, misclassified expenses, undocumented expenses, target pilot compensation, benefits, determination of the number of pilots, and calculation of the investment base. The Coast Guard will review these issues before calculating the full rate adjustment, but has not changed the District Two figures for the calculation of the partial rate adjustment.

One comment from a labor union objected to the Coast Guard requesting information concerning rates charged by longshoremens. The comment stated that the Coast Guard intended to use this, and similar other information, in an attempt to charge shippers as much as the market would bear for pilotage services. The Coast Guard did request public comment on a number of costs included in the total cost of shipping, to use as a comparison with the costs of pilotage services. In addition, the Coast Guard has contracted for an economic impact analysis of pilotage rates on shipping and on the regional economy of the Great Lakes basin.

#### *Delay and Detention*

Some comments stated that delay and detention should be included as bridge hours when calculating the number of pilots needed. As discussed elsewhere in this preamble, the Coast Guard's Bridge Hour Study is currently under review. This study specifically examines the issue of whether delay and detention should be included as bridge hours.