

DEPARTMENT OF TRANSPORTATION**Saint Lawrence Seaway Development Corporation****33 CFR Part 401**

[Docket No. SLSDC 2007-0005]

RIN 2135-AA27

Seaway Regulations and Rules: Periodic Update, Various Categories**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These proposed amendments are necessary to take account of updated procedures and would eliminate the confusion regarding the requirements for saltwater flushing in the binational waters of the Seaway System.

DATES: Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before January 30, 2008.

ADDRESSES: You may submit comments [identified by Docket Number SLSDC 2007-0005] by any of the following methods:

- **Web Site:** <http://www.Regulations.gov>. Follow the online instructions for submitting comments/submissions.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-001.
- **Hand Delivery:** Documents may be submitted by hand delivery or courier to West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE.,

Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change at <http://www.Regulations.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://www.Regulations.gov>; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Bedwell Mann, Chief Counsel, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-0091.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These updates are necessary to take account of updated procedures which would enhance the safety of transits through the Seaway and eliminate the confusion regarding the requirements for saltwater flushing of ballast tanks containing only residual amounts of water and/or sediment in the binational waters of the Seaway System. Several of the proposed amendments are merely editorial or clarification of existing requirements. Where new requirements or regulations are being proposed, an

explanation for such a change is provided below.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.Regulations.gov>.

The SLSDC is proposing to make one amendment to the Condition of Vessels section of the joint Seaway regulations. In § 401.12, "Minimum requirements—mooring lines and fairleads," the language is modified to provide vessels the option of using mooring lines that are either wire or synthetic based upon the length of the vessel. Since mooring lines can be wire or synthetic some smaller vessels have presented themselves for transit with a mix of mooring wires and/or synthetic lines. Synthetic lines or hawsers are sufficient to moor the smaller vessels and mooring wire is more than capable of mooring the smaller vessels; therefore, the use of either wire or synthetic lines will be acceptable.

Several amendments to the joint regulations pertaining to Seaway Navigation are being proposed. In § 401.34, "Vessels in tow," the SLSDC is proposing to add a provision that would require every vessel in tow be inspected prior to every transit. The SLSDC is proposing this amendment to ensure navigation safety through inspection of all vessels even when a vessel is in tow. Currently such vessels are being inspected; however, this proposed change will make it a mandatory requirement.

The SLSDC is proposing to amend the joint regulations in § 401.30, "Ballast water and trim." The proposed amendment seeks to harmonize the requirements for saltwater flushing of ballast water tanks containing residual amounts of ballast water and/or sediment with the requirements already in place for vessels transiting Canadian waters of the Seaway System. Vessels transiting the Seaway traverse Canadian and U.S. waters multiple times en route to ports in the Great Lakes St. Lawrence Seaway System. The proposed amendments would make the requirements for foreign flagged vessels (non U.S. or Canadian flagged) to conduct saltwater flushing of each ballast water tank that contains residual amounts of ballast water and/or

sediment the same whether the vessel is transiting U.S. or Canadian waters of the Seaway after having operated outside the Canadian and/or U.S. exclusive economic zone (EEZ). The proposed requirement for saltwater flushing of ballast tanks is intended to mirror the regulations already in effect in waters under Canadian jurisdiction for vessels transiting the Seaway.

Specifically, the SLSDC, in agreement with the SLSMC, proposes to amend the Seaway Regulations and Rules by adding new subsections (f) and (g) to § 401.30, "Ballast water and trim."

These new subsections would require that, as a condition of transiting the Seaway, every foreign flagged vessel (non Canadian or U.S. flagged) must conduct a saltwater flushing of its ballast tanks that contain residual amounts of ballast water in an area 200 nautical miles from any shore before entering waters under Canadian jurisdiction. Saltwater flushing is defined as the addition of mid-ocean water to ballast water tanks: The mixing of the freshwater with residual water and sediment through the motion of the vessel; and the discharge of the mixed water. The resultant residual water remaining in the tank must have a salinity level of at least 30 parts per thousand (ppt). Further, each foreign flagged vessel must maintain the ability to measure salinity levels in each tank onboard the vessel so that final salinities of at least 30 parts per thousand can be ensured. Any vessel that has tanks that fail to reach this salinity level will be required to retain any water in those tanks that is taken onboard in the St. Lawrence River or Great Lakes. The requirements for saltwater flushing would not apply to U.S. or Canadian flagged vessels or to any vessel that has operated exclusively inside the U.S. and/or Canadian EEZ.

In addition, the SLSDC and SLSMC will continue to require that as a mandatory prerequisite for clearance of a commercial vessel for transit of the Seaway System after operating beyond the EEZ, the vessel must agree to comply with the "Code of Best Practices for Ballast Water Management" of the Shipping Federation of Canada dated September 28, 2000.

In light of the amount of interest and activity regarding control of aquatic nuisance species (ANS) at all levels of government, especially in the U.S. Congress and the U.S. Coast Guard, the joint regulations would be reviewed and revised once either national legislation and/or regulations are issued that would pertain directly to this issue.

In § 401.40, "Entering, exiting, or position in lock", the SLSDC proposes

to prohibit a vessel, when it is being cast off in a lock, from departing in a manner that the stern passes the stop symbol on the local wall nearest the closed gates. Occasionally vessels drift backward in the lock while the mooring lines are being released; preventing the vessel's stern from passing the stop symbol will protect the vessel and the lock gates from possible damage.

Other proposed changes made to the joint regulations, including one to the regulations pertaining to Information and Reports, are merely editorial or for clarification purposes.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this proposed regulation will not have a significant economic impact on a substantial number of small entities. The Saint Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et reg.) because it is not a major federal action significantly affecting the quality of the human environment. The environmental considerations applicable to the basic substance of this proposed regulation are essentially discussed in the U.S. Coast Guard's Environmental Assessment for its May 17, 1999, "Implementation of the National Invasive Species Act of 1996" rulemaking (64 FR 26672) and the U.S. Coast Guard's Environmental Assessment for its August 31, 2005, "Ballast Water Management for Vessels Entering the Great Lakes That Declare No Ballast Onboard" (71 FR 4605).

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

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

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.12 paragraphs (a)(1) introductory text, (a)(1)(i), (a)(2) introductory text, (a)(3) introductory text, and (a)(4) introductory text are revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * *

(1) Vessels of 80m or less in overall length shall have at least three mooring lines—wires or synthetic hawsers, two of which shall be independently power operated and one of which shall be hand held:

(i) One line shall lead forward from the break of the bow and one line shall lead astern from the quarter and be independently power operated by winches, capstans or windlasses and lead through closed chocks or fairleads acceptable to the Manager and the Corporation; and

* * * * *

(2) Vessels of more than 80m but not more than 100m in overall length shall have four mooring lines—wires or synthetic hawsers, of which three shall be independently power operated by

winch, capstans or windlasses and one being hand held. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation, of which three mooring lines:

* * * * *

(3) Vessels of more than 100m but not more than 120m in overall length shall have four mooring wires or synthetic hawsers independently power operated by winches, capstan or windlasses as follows:

* * * * *

(4) Vessels of more than 120m in overall length shall have four mooring wires, two of which shall lead from the break of the bow and two of which shall lead from the quarter, and;

* * * * *

3. § 401.27 is revised to read as follows:

§ 401.27 Compliance with instructions.

Every vessel shall comply promptly with transit instructions given by the traffic controller or any other officer of the Corporation.

4. In § 401.29 paragraph (a) is revised to read as follows:

§ 401.29 Maximum draft.

(a) The draft and speed of a vessel in transit shall be controlled by the master, who shall take into account the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom.¹

* * * * *

5. § 401.30 is amended by adding new paragraphs (f) and (g) to read as follows:

§ 401.30 Ballast water and trim.

* * * * *

(f) As a condition of transit of the Seaway after having operated outside the Canadian and or U.S. exclusive economic zone (EEZ) every foreign flagged vessel (a non Canadian or U.S. flagged vessel) that carries only residual amounts of ballast water and/or sediment that were taken onboard the vessel outside waters under Canadian or U.S. jurisdiction shall:

(1) Conduct a saltwater flushing of their ballast water tanks that contain the residual amounts of ballast water and/or sediment in an area 200 nautical miles from any shore before entering waters of the Seaway. Saltwater flushing is defined as the addition of midocean water to ballast water tanks: The mixing of the freshwater with residual water and sediment through the motion of the vessel; and the discharge of the mixed water, such that the resultant residual

water remaining in the tank has as high salinity as possible, and is at least 30 parts per thousand (ppt). The vessel should take on as much mid-ocean water into each tank as is safe (for the vessel and crew) in order to conduct saltwater flushing. And adequate flushing may require more than one fill-mix-empty sequence, particularly if only small amounts of water can be safely taken onboard at one time. The master of the vessel is responsible for ensuring the safety of the vessel, crew, and passengers. Vessels reporting only residual ballast water onboard should take particular care to conduct saltwater flushing on the transit to the Great Lakes so as to eliminate fresh and or brackish water residuals in ballast tanks; and

(2) Maintain the ability to measure salinity levels in each tank onboard the vessel so that final salinities of at least 30 ppt can be ensured.

(g) Every foreign flagged vessel that is found not in compliance with § 401.30(f) shall retain any ballast water taken aboard in the St. Lawrence River or Great Lakes.

6. In § 401.31 paragraph (c) introductory text is revised to read as follows:

§ 401.31 Meeting and passing.

* * * * *

(c) Except as instructed by the traffic controller, no vessel shall overtake and pass or attempt to overtake and pass another vessel—

* * * * *

7. § 401.34 is revised to read as follows:

§ 401.34 Vessels in tow.

No vessel that is not self-propelled (including but not limited to tug/tows and/or deadship/tows) shall be underway in any Seaway waters unless it is securely tied to an adequate tug or tugs, in accordance with special instructions given by the Manager or the Corporation pursuant to § 401.33. Every vessel in tow has to be inspected prior to every transit unless it has a valid Seaway Inspection Certificate. The owner/master shall give a 24 hour notice of arrival when an inspection is requested.

8. § 401.36 is revised to read as follows:

§ 401.36 Order of passing through.

Vessels shall advance to a lock in the order instructed by the traffic controller.

9. In § 401.37 paragraph (a) is revised to read as follows:

§ 401.37 Mooring at tie-up walls.

(a) Upon arrival at a lock, a vessel awaiting instructions to advance shall

moor at the tie-up wall, close up to the designated limit or approach sign or to the ship preceding it, whichever is specified by the traffic controller or an officer of the Corporation.

* * * * *

10. In § 401.40 paragraph (b) is revised to read as follows:

§ 401.40 Entering, exiting or position in lock.

* * * * *

(b) On being cast off in a lock, no vessel shall be able to fall back in such a manner that the stern passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

11. In § 401.48 paragraph (a) is revised to read as follows:

§ 401.48 Turning basins.

* * * * *

(a) With permission from the traffic controller; and

* * * * *

12. § 401.49 is revised to read as follows:

§ 401.49 Dropping anchor or tying to canal bank.

Except in an emergency, no vessel shall drop anchor in any canal or tie-up to any canal bank unless authorized to do so by the traffic controller.

13. In § 401.50 the introductory text is revised to read as follows:

§ 401.50 Anchorage areas.

Except in an emergency, or unless authorized to do so by the traffic controller, no vessel shall drop anchor in any part of the Seaway except in the following designated anchorage areas:

* * * * *

14. In § 401.51 paragraph (a) is revised to read as follows:

§ 401.51 Signaling approach to a bridge.

(a) Unless a vessel's approach has been recognized by a flashing signal, the master shall signal the vessel's presence to the bridge operator by VHF radio when it comes abreast of any of the bridge whistle signs.

* * * * *

15. In § 401.58 paragraph (a) is revised to read as follows:

§ 401.58 Pleasure craft scheduling.

(a) The transit of pleasure craft shall be scheduled by the traffic controller or the officer in charge of a lock and may be delayed so as to avoid interference with other vessels; and

* * * * *

16. § 401.83 is revised to read as follows:

¹ The main channels between the Port of Montreal and Lake Erie have a controlling depth of 8.23m.

§ 401.83 Reporting position at anchor, wharf, etc.

A vessel anchoring in a designated anchorage area, or elsewhere, and a vessel mooring at a wharf or dock, tying-up to a canal bank or being held on a canal bank in any manner shall immediately report its position to the traffic controller and it shall not resume its voyage without the traffic controller's permission.

Issued at Washington, DC, on December 21, 2007.

Saint Lawrence Seaway Development Corporation.

Collister Johnson, Jr.,

Administrator.

[FR Doc. E7-25340 Filed 12-28-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[EPA-R05-OAR-2006-0003; FRL-8512-5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing disapproval of a revision to the Illinois Ozone State Implementation Plan (SIP). On August 17, 2005, Illinois requested that five compounds be added to its list of compounds exempt from being considered a volatile organic compound (VOC). EPA no longer considers four of the compounds to be VOCs because the compounds were shown to be negligibly photochemically reactive. Thus, the compounds do not lead to ozone formation. For the fifth compound, t-butyl acetate, EPA determined that it is not considered a VOC for emission limits and VOC content requirements, but it is considered a VOC for recordkeeping, emission reporting, and inventory requirements. Illinois has indicated it is correcting the restrictions on t-butyl acetate. Consequently, EPA is alternatively proposing approval of the SIP revisions if t-butyl acetate is removed from the list of compounds exempt from being considered VOC or if the special requirements for t-butyl acetate are clearly indicated. Illinois must submit the supporting documentation during the comment period for this rule.

DATES: Comments must be received on or before January 30, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-

OAR-2006-0003, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312)886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2006-0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Revisions Did the State Request?
- III. What Is EPA's Analysis of the Revisions?
- IV. What Action Is EPA Taking Today?
- V. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.