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DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Docket No. SLSDC-2012-0001

RIN 2135-AA30

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 amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The proposed changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; Dangerous Cargo; Information and Reports; General; and, Navigation Closing Procedures. These proposed amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the proposed amendments are merely editorial or for clarification of existing requirements.

DATES: Any party wishing to present views on the proposed amendment may file comments with the Corporation on or before (Insert date 30 days after the date of publication in the FEDERAL REGISTER).

ADDRESSES: You may submit comments identified by Docket Number SLSDC 2012-0001 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 S.E., 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, S.E., Washington, D.C. 20590-001, between 9 am and 5 pm, 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 S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-001, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764-3200.

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; Dangerous Cargo; Information and Reports; General; and, Navigation Closing Procedures. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these proposed changes are to clarify existing requirements in the regulations. 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 DOT'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 amend three sections of the Condition of Vessels portion of the joint Seaway regulations. Under section 401.11, "Fairleads", due to damage from fairleads

on new vessels, the SLSDC is proposing that all sharp edges be rounded. In section 401.12, “Minimum requirements – mooring lines and fairleads”, the SLSDC is addressing the use of wire lines on vessels 100 m or less. In section 401.15, “Stern anchors”, the Seaway entities are proposing vessels of more than 125 m in overall length as well as every integrated tug and barge or articulated tug and barge unit greater than 125 m in overall length be equipped with a stern anchor.

Several changes to the Seaway Navigation section are being proposed. The Seaway Corporations are amending its joint rules in section 401.29, “Maximum draft”, to permit vessels using a “Draft Information System” (DIS) to transit the Seaway up to 7 cm (3 inches) above the maximum permissible draft allowed at the time. The use of a DIS is an optional, not a mandatory requirement, to transit the Seaway. The DIS will allow the vessel to transit the Seaway at a draft up to 3 inches (7 cm) more than the published maximum draft with prior approval from the two Seaway entities.

Benefits of using the DIS

The primary purpose of this proposed amendment is safety. The use of the DIS will ensure that vessels maintain a safe under keel clearance as they make maximum use of the available water column. DIS uses water level measurements, bathymetry of the channel bottom, and squat of the vessel as it moves at different speeds and in different channel types. The squat of a vessel varies depending on the vessel type, hull shape, and the type of channel in which it is operating, and the vessel’s speed. By including all the factors, the under keel clearance value is determined in real time. The information on the projected under keel clearance is integrated electronically with chart data, high-resolution bathymetry and other readings on a single bridge display.

The technology features an algorithm, which allows the Master to estimate under keel clearance ahead, offering time for a course change or other required reaction in transit. By Masters having more precise information regarding the available water column, the risk of a vessel touching bottom or grounding is reduced.

In addition to the safety benefits, increasing the maximum allowable draft will increase the Seaway's productivity and competitiveness. Depending on the commodity carried, an additional three inches of draft might account for as much as 360 additional metric tons per voyage.

Development of DIS Specification

The use of a DIS tool began in 2003 in the St. Mary's River. In 2006, the Seaway entities conducted 4 trials of the tool used in the St. Mary's River as a proof of concept. Three tests were conducted in the Montreal to Lake Ontario (MLO) section of the Seaway during 2007 under low water conditions. During 2008 tests were conducted in the MLO and Welland Canal sections of the Seaway. In 2009, eight (8) trials were conducted in the Welland Canal section and ten (10) trials were conducted in the MLO section of the Seaway. In 2010 a DIS pilot program was instituted in the MLO and Welland Canal. After successful completion of the test trials and pilot program and to ensure future consistency and reliability of the DIS, the two Seaway entities began the development of a standard DIS specification.

On January 19, 2011, the two Seaway Corporations jointly published an industrial implementation specification entitled, "Implementation Specification – a Draft Information System for the St. Lawrence Seaway" (Specification). Following a public comment period during which comments received were considered in the development of the Specification, a final Implementation Specification was published on the bi-national website at

<http://www.greatlakes-seaway.com> on March 16, 2011. The Specification was developed under the guidance of the St. Lawrence Seaway Management Corporation, the SLSDC, together with representatives from system manufacturers and the shipping industry. The development of the Specification followed accelerated procedures derived from the International Organization for Standards (ISO) standardization process that endeavored to develop a broad based consensus standard. The DIS Implementation Specification describes the functionality and interfaces for a system which utilizes water levels, channel type, bathymetry, and vessel speed and characteristics to determine current and predicted under keel clearance. On March 18, 2012, the first DIS Tool was verified by a member of the International Association of Classification Societies (IACS) to be compliant with the Specification.

In addition, the two Seaway Corporations, in section 401.32, “Cargo booms – deck cargo” are proposing to require notification of the height of deck cargo in order to determine appropriate wind restrictions.

In the Information and Reports section, a change to section 401.79, “Advance notice of arrival, vessels requiring inspection” is being proposed. The amendments would provide requirements for reporting notice of arrival depending on the vessel’s voyage time. Further, vessels requiring inspection or re-inspection would be required to provide a 24-hour notice of inspection based on certain specified factors. The Advance Notice of Arrival procedures are currently in effect pursuant to Seaway Notices.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

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 that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. 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 seq.) because it is not a major federal action significantly affecting the quality of the human environment.

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 401as 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 § 401.11, add paragraph (a)(4) to read as follows:

§ 401.11 Fairleads.

(a) * * *

(4) When passing synthetic lines through a type of fairlead or closed chock acceptable to the Manager and the Corporation all sharp edges of the fairlead, closed chock and/or bulwark shall be rounded to protect the line from chafing or breakage.

* * * * *

■ 3. In § 401.12 revise paragraph (a)(1)(ii) to read as follows:

§401.12 Minimum requirements – mooring lines and fairleads.

(a) * * *

(1) * * *

(ii) One synthetic hawser may be hand held or if wire line is used shall be powered. The line shall lead astern from the break of the bow through a closed chock to suitable bitts on deck for synthetic line or led from a capstan, winch drum or windlass to an approved fairlead for a wire line.

* * * * *

■ 4. Revise § 401.15 to read as follows:

§ 401.15 Stern anchors.

(a) Every vessel of more than 125 m in overall length, the keel of which is laid after January 1, 1975, shall be equipped with a stern anchor.

(b) Every integrated tug and barge or articulated tug and barge unit greater than 125 m in overall length which is constructed after January 1, 2003 shall be equipped with a stern anchor.

■ 5. In § 401.28 revise paragraph (d) to read as follows:

§ 401.28 Speed limits.

* * * * *

(d) Notwithstanding the above speed limits, every vessel approaching a free standing lift bridge shall proceed at a speed that it will be able to stop prior to it reaching the Limit of Approach sign should the raising of the bridge be delayed.

* * * * *

■ 6. Revise § 401.29 to read as follows:

§ 401.29. Maximum draft.

(a) Notwithstanding any provision herein, the loading of cargo, 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

- (b) The draft of a vessel shall not, in any case, exceed 79.2 dm or the maximum permissible draft designated in a Seaway Notice by the Manager and the Corporation for the part of the Seaway in which a vessel is passing.
- (c) Any vessel equipped with:
 - (1) An operational Draft Information System (DIS) Tool verified by a member of the International Association of Classification Societies (IACS) as compliant with the Implementation Specifications found at <http://www.greatlakes-seaway.com> and contained in the Seaway Handbook under “Ship Transit and Equipment Requirements” shall have onboard;
 - (2) Up-to-date electronic navigational charts; and
 - (3) Up-to-date charts containing high-resolution bathymetric data; and
 - (4) A pilot plug, if using a portable DIS Tool, will be permitted, when using the DIS Tool, subject to 33 CFR 29(a), to increase their draft by no more than 7 cm above the maximum permissible draft prescribed under 33 CFR 29(b) in effect at the time.
- (d) Any vessel intending to use DIS must notify the Manager or the Corporation in writing at least 24-hours prior to commencement of its initial transit in the System with the DIS Tool.
- (e) Verification document of the DIS Tool must be kept on board the vessel at all times and made available for inspection.
- (f) If for any reason the DIS becomes inoperable, malfunctions, or is not used, the vessel must notify the Manager or the Corporation immediately.

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

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of Pub. L. 95-474, 92 Stat. 1471)

- 7. In § 401.32 add paragraph (b)(3) to read as follows:

§ 401.32 Cargo booms-deck cargo.

* * * * *

(b) * * *

(3) Seaway Traffic Control Center shall be notified of the height of deck cargo prior to transiting the Seaway or when departing from a Port or Wharf within the Seaway.

- 8. In § 401.44, revise paragraph (b) to read as follows:

§401.44 Mooring in locks.

* * * * *

(b) Once the mooring lines are on the mooring posts, lines shall be kept slack until the “all clear” signal is given by the lock personnel. When casting off signal is received, mooring lines should be kept slack until the “all clear” signal is given by the lock personnel.

- 9. In § 401.59, add paragraph (e) to read as follows:

§401.59 Pollution.

* * * * *

(e) Except as authorized by the Manager or the Corporation, no over the side painting shall be allowed in the Seaway.

* * * * *

- 10. In § 401.72, revise paragraph (d) to read as follows:

§ 401.72 Reporting -- explosive and hazardous cargo vessels.

* * * * *

(d) Every vessel carrying radioactive substances shall, when reporting in, give the number and date of issue of any required certificate issued by the Canadian Nuclear Safety Commission (CNSC) and/or the U.S. Nuclear Regulatory Commission (USNRC) authorizing such shipment.

* * * * *

■ 11. Revise § 401.79 to read as follows:

§401.79 Advance notice of arrival, vessels requiring inspection.

(a) Advance Notice of Arrival. All foreign flagged vessels intending to transit the Seaway shall submit one complete electronic Notice of Arrival (NOA) prior to entering at call in point 2 (CIP 2) as follows:

- (1) If your voyage time to CIP 2 is 96 hours or more, you must submit an electronic NOA 96 hours before entering the Seaway at CIP 2.
- (2) If your voyage time to CIP 2 is less than 96 hours, you must submit an electronic NOA before departure, but at least 24 hours before entering the Seaway at CIP 2.
- (3) If there are changes to the electronic NOA, submit them as soon as practicable but at least 12 hours before entering the Seaway at CIP 2.
- (4) The NOA must be provided electronically following the USCG National Vessel Movement Center's (NVMC) procedures (<http://www.nvmc.uscg.gov>).
- (5) To complete the NOA correctly for Seaway entry, select the following:
 - (i) "CIP 2" as the Arrival Port,
 - (ii) "Foreign to Saint Lawrence Seaway" as the Voyage Type, and
 - (iii) "Saint Lawrence Seaway Transit" as the Arrival State, City and Receiving Facility.

(b) Vessels requiring inspection or reinspection. All pre-cleared vessels must provide a 24 hour notice of inspection as follows:

(1) Enhanced Seaway inspection. All foreign flagged vessels and vessels of unusual design are subject to a Seaway inspection prior to initial transit of the Seaway each navigation season.

(2) Inland self-inspection. Inland domestic vessels which are approved by the Seaway and are ISM certified and have a company quality management system, must submit the “Self-Inspection Report”, every 2 navigation seasons and not later than 30 days after “fit out”.

(3) Inland domestic vessels not participating in the “Self-Inspection Program” are subject to Seaway inspection prior to every transit of the Seaway.

(4) Tub/barge combinations not on the “Seaway Approved Tow” list are subject to Seaway inspection prior to every transit of the Seaway.

■ 12. In § 401.84, revise paragraph (c) to read as follows:

§401.84 Reporting of impairment or other hazard by vessels transiting within the Seaway.

* * * * *

(c) Any malfunction of equipment on the vessel

* * * * *

■ 13. In § 401.89, add paragraph (a)(4) to read as follows:

§ 401.89 Transit refused.

(a) * * *

(4) The vessel is not in compliance with flag state and/or classification society regulations.

■ 14. Revise § 401.92 to read as follows:

Craig H. Middlebrook

Acting Administrator

Billing Code 4910-61-P

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