

(7) * * * Paragraph (e)(1)(ii) of this section, however, applies to transactions occurring after August 30, 2000, unless the transaction occurs pursuant to a written agreement that is (subject to customary conditions) binding on that date and at all times thereafter. Taxpayers who entered into a binding agreement on or after January 28, 1998, and before August 30, 2000, may request a private letter ruling permitting them to apply the final regulation to their transaction. A private letter ruling will not be issued unless the taxpayer establishes to the satisfaction of the IRS that there is not a significant risk of different parties to the transaction taking inconsistent positions, for Federal tax purposes, with respect to the applicability of the final regulations to the transaction.

§ 1.368-1T [Removed]

Par. 3. Section 1.368-1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. Section § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *
(b) * * *

CFR part or section where identified or described	Current OMB control No.
* * * * *	* * * * *
1.368-1	1545-1691
* * * * *	* * * * *

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: August 23, 2000.

Jonathan Talisman,
Acting Assistant Secretary of the Treasury.
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DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2000-7543]

RIN 2135-AA11

Seaway Regulations and Rules: Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation of Canada (SLSMC) publish joint Seaway Regulations. The SLSDC and the SLSMC have determined that a number of existing regulations need to be amended. Only four of the amendments are substantive and of applicability in both U.S. and Canadian waters. (See **SUPPLEMENTARY INFORMATION.**) The remaining amendments are merely editorial, ministerial, for clarification without substantive change in interpretation, or applicable only in Canada. The Canada Marine Act has abolished the Saint Lawrence Seaway Authority of Canada and replaced it with the SLSMC, made changes in the manner in which the SLSMC conducts or may conduct its operations as compared to the Authority, and made minor changes in some of the terminology used in the Canadian law applicable to the Seaway. Accordingly, most of the amendments are strictly editorial, reflect procedures undertaken unilaterally by the SLSMC, or otherwise are applicable only in Canada because of unilateral action by the SLSMC or Canadian law. Other changes are due strictly to Canadian circumstances or unilateral action, such as: removal of reference to bridges that no longer exist; removal of references to the Canadian entity in the rules on detention and sale; and adding provisions that are only applicable on Canadian property. Some minor changes in numbering and lettering also are being made.

DATES: This rule is effective on October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366-6823.

SUPPLEMENTARY INFORMATION: As a result of discussions with the Saint Lawrence

Seaway Management Corporation of Canada, the Saint Lawrence Seaway Development Corporation is amending the Seaway Regulations and Rules in 33 CFR part 401. A Notice of Proposed Rulemaking was published on June 29, 2000 (65 FR 40070). Interested parties have been afforded an opportunity to participate in the making of these amendments. No comments were received. The amendments are described in the following summary.

Only four of the amendments are substantive and of applicability in both U.S. and Canadian waters, which are as follows. Section 401.3, "Maximum vessel dimensions", is amended by revising paragraph (e) to allow a vessel with a beam in excess of 23.2 m, but not more than 23.8 m, and an overall length in excess of 222.5 m, but not more than 225.5 m, to be considered for transit upon application to the SLSMC and SLSDC. This amendment follows successful feasibility testing by both corporations. Section 410.10, "Mooring lines", is amended by adding a new paragraph (a)(2) requiring mooring lines to have a diameter not greater than 28 mm. This is in response to safety concerns for linehandling personnel of both corporations. The larger, heavier mooring lines that have been used by some vessels are difficult to handle and may cause back injuries. Section 401.13, "Hand lines", is amended by changing the minimum diameter from 12 mm to 15 mm, the maximum diameter from 20 mm to 17 mm, and the minimum length from 35 m to 30 m for similar safety of linehandling personnel reasons. Schedule III, "Calling-In Table", is amended by changing a number of reporting requirements at certain calling-in points. The SLSDC and the SLSMC now share the same computer database, which eliminates the need for vessels to report particulars more than once unless a change has occurred.

The remaining amendments, described in the rest of this preamble, are merely editorial, ministerial, for clarification without substantive change in interpretation, or applicable only in Canada. Some minor changes in numbering and lettering also are being made. The Canada Marine Act has abolished the Saint Lawrence Seaway Authority of Canada and replaced it with the SLSMC, made changes in the manner in which the SLSMC conducts or may conduct its operations as compared to the Authority, and made minor changes in some of the terminology used in the Canadian law applicable to the Seaway. Accordingly, most of the amendments in this proposal are strictly editorial, reflect procedures undertaken unilaterally by

the SLSMC, or otherwise are applicable only in Canada because of unilateral action by the SLSMC or Canadian law. The principal change of this type is wherever the terms "Saint Lawrence Seaway Authority", "Authority", etc. appear, they are replaced with "Saint Lawrence Seaway Management Corporation", "Manager", etc. Another change is the term "vessel" is referred to as "ship" in the Canadian Act and the regulations will so note. Similarly, the SLSMC now refers to the "Tariff of Tolls" as the "Schedule of Tolls" and to "tolls and charges" as "fees", both of which also are to be noted in the regulations. Finally, the SLSMC now refers to these regulations as "Practices and Procedures" and that is so noted.

There are a number of changes that merely reflect current Canadian practice in their procedures for clearances and tolls collection, and similar matters, such as adding a requirement for 3 copies of applications for preclearance in section 401.24 or the type of bonding they will accept in paragraph 401.26(a)(5). Some administrative provisions, such as paragraphs 401.26(b), 401.54(a), and 401.59(c) and section 401.33, have been rewritten simply for clarity with no substantive change. In addition, where the Canadian SLSMC is solely handling the administrative aspect of the Seaway's operations, such as in section 401.26 for security for tolls, references to the SLSDC are being removed. Other changes are due strictly to Canadian circumstances or unilateral action include: removal of the reference to Bridges 20 and 21 in paragraph 401.52(b) is removed because the bridges no longer exist; removal of references to the Canadian entity in the rules on detention and sale, sections 401.86, 401.87, and 401.88, which the SLSMC will no longer use, but which remain of current and prospective use by the SLSDC. Finally, new paragraphs (b) and (c) are being added to section 401.90, "Boarding for inspection", which are only applicable on Canadian property.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12866 does not apply. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this 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 the activities of 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 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 human environment.

Federalism

The Corporation has analyzed this regulation under the principles and criteria in Executive Order 13132, Dated August 4, 1999, and has determined that it will not have a substantial, direct effect on the States or on the distribution of power and responsibilities among various levels of government. The regulation will not limit the policymaking discretion of the States. Nothing in it would directly preempt any State law or regulation. Because the regulation will have no significant effect on State or local governments, no consultations with those governments on this regulation were necessary.

Paperwork Reduction Act

This 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), Radio reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends Part 401—Seaway Regulations and Rules (33 CFR part 401) as follows:

PART 401—[AMENDED]

1. The authority citation for part 401, subpart A, is revised to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.50a, unless otherwise noted.

§ 401.1 [Amended]

2. Section 401.1 is amended by adding the parenthetical phrase "(the "Practices and Procedures" in Canada)" after the words "Seaway Regulations".

§ 401.2 [Amended]

3. Section 401.2 is amended as follows:

- a. Remove paragraph (a).
- b. Redesignate paragraphs (b) and (c) as paragraphs (a) and (b).
- c. Add a new paragraph (c);
- d. Redesignate current paragraphs (m) through (p) as paragraphs (o) through (r).
- e. Add new paragraphs (m) and (n).
- f. In newly redesignated paragraph (q), add the parenthetical phrase "("ship" in Canada)" after the word "Vessel".
- g. In newly redesignated paragraph (r), add the parenthetical phrase "("ship traffic controller" in Canada)" after the word "controller".

The additions read as follows:

§ 401.2 Interpretation.

* * * * *

(c) "Manager" means the St. Lawrence Seaway Management Corporation;

* * * * *

(m) "Tariff of Tolls" means the same as "Schedule of Tolls in Canada.

(n) "Tolls(s)" or "tolls and charges" is included in the definition of "fees" in Canada.

* * * * *

4. Section 401.3 is amended by revising paragraph (e) to read as follows:

§ 401.3 Maximum vessel dimensions.

* * * * *

(e) A vessel having a beam width in excess of 23.2 m, but not more than 23.8 m, and having dimensions that do not exceed the limits set out in the block diagram in Appendix I of this Part or overall length in excess of 222.5 m, but not more than 225.5 m, shall, on application to the Manager or Corporation, be considered for transit in accordance with directions issued by the Manager and Corporation.

* * * * *

5. Section 401.10 is amended by redesignating current paragraphs (a)(2), (3), and (4) as paragraphs (a)(3), (4), and (5) and by adding a new paragraph (a)(2) to read as follows:

§ 401.10 Mooring lines.

(a) * * *

(2) Have a diameter not greater than 28mm;

* * * * *

6. Section 401.13 is amended by revising paragraph (b) to read as follows:

§ 401.13 Hand lines.

* * * * *

(b) Be of uniform thickness and have a diameter of not less than 15 mm and not more than 17 mm and a minimum length of 30 m.

* * * * *

§ 401.22 [Amended]

7. Section 401.22 is amended by removing the words “the Corporation or” the first time they appear in paragraph (a).

§ 401.24 [Amended]

8. Section 401.24 is amended by adding the parenthetical phrase “(3 copies)” after the word “form”.

§ 401.25 [Amended]

9. Section 401.25 is amended by removing the words “in writing” in paragraph (a).

10. Section 401.26 is revised to read as follows:

§ 401.26 Security for tolls.

(a) Before transit by a vessel to which the requirement of preclearance applies, security for the payment of tolls in accordance with the “St. Lawrence Seaway Tariff of Tolls” as well as security for any other charges, shall be provided by the representative by means of:

- (1) A deposit of money with the Manager;
- (2) A deposit of money to the credit of the Manager with a bank in the United States or a member of the Canadian Payments Association, a corporation established by section 3 of the Canadian Payments Association Act, or a local cooperative credit society that is a member of a central cooperative credit society having membership in the Canadian Payments Association;
- (3) A deposit with the Manager of negotiable bonds of the Government of the United States or the Government of Canada; or
- (4) A letter of guarantee to the Manager given by an institution referred to in paragraph (a)(2) of this section.
- (5) A letter of guarantee or bond given to the Manager by an acceptable Bonding Company. Bonding companies may be accepted if they:

- (i) Appear on the list of acceptable bonding companies as issued by the Treasury Board of Canada; and
 - (ii) Meet financial soundness requirements as may be defined by the Manager at the time of the request.
- (b) The security for the tolls of a vessel shall be sufficient to cover the tolls established in the “St. Lawrence Seaway Tariff of Tolls” for the gross

registered tonnage of the vessel, cargo carried, and lockage tolls as estimated by the Manager.

- (c) Where a number of vessels:
 - (1) For each of which preclearance has been given;
 - (2) Are owned or controlled by the same individual or company; and
 - (3) Have the same representative, the security for the tolls is not required if the individual, company, or representative has paid every toll invoice received in the preceding five years within the period set out in § 401.75(a).

(d) Notwithstanding paragraph (c) of this section, where a number of vessels, for each of which a preclearance has been given, are owned or controlled by the same individual or company and have the same representative, the security for tolls may be reduced or eliminated provided the representative has paid every toll invoice received in the preceding five years within the period set out in § 401.75(a). The representative must provide the Manager with a financial statement that meets the requirements established by the Manager.

(e) Where, in the opinion of the Manager, the security provided by the representative is insufficient to secure the tolls and charges incurred or likely to be incurred by a vessel, the Manager may suspend the preclearance of the vessel.

11. Section 401.28 is amended by revising paragraphs (a) and (b) to read as follows:

§ 401.28 Speed limits.

(a) The maximum speed over the bottom for a vessel of more than 12 m in overall length shall be regulated so as not to adversely affect other vessels or shore property, and in no event shall such a vessel proceeding in any area between the place set out in Column I of an item of Schedule II to this part and a place set out in Column II of that item exceed the speed set out in Column III or Column IV of that item, whichever speed is designated by the Corporation and the Manager in a Seaway Notice from time to time as being appropriate to existing water levels.

(b) Where the Corporation or the Manager designate any speed less than the maximum speeds set out in Schedule II of this part, that speed shall be transmitted as transit instructions referred to in § 401.27.

* * * * *

12. Section 401.29 is amended by revising paragraph (b) to read as follows:

§ 401.29 Maximum draft.

* * * * *

(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 Corporation and the Manager for the part of the Seaway in which a vessel is passing.

* * * * *

13. Section 401.33 is revised to read as follows:

§ 401.33 Special instructions.

No vessel of unusual design, vessel, or part of a vessel under tow, or vessel whose dimensions exceed the maximum vessel dimensions § 401.3 shall transit the Seaway except in accordance with special instructions of the Corporation or the Manager given on the application of the representative of the vessel.

§ 401.37 [Amended]

14. Section 401.37 is amended by inserting the words “U.S. Coast Guard or Canadian approved” after the word “wear” in paragraph (b).

§ 401.52 [Amended]

15. Section 401.52 is amended by removing the phrase “or at Bridges 20 and 21 on the Welland Canal,”.

§ 401.54 [Amended]

16. Section 401.54 is amended by removing the words “moored to” in paragraph (a) and adding in their place the words “used as moorings”.

§ 401.59 [Amended]

17. Section 401.59 is amended by adding the words “by the vessel” after the word “kept” in paragraph (c).

§ 401.68 [Amended]

18. Section 401.68 is amended by removing the word “Authority” and adding in its place the words “Management Corporation” in paragraph (c).

19. Section 401.74 is amended by revising paragraphs (a), (e), (f) and (g) to read as follows:

§ 401.74 Transit declaration.

(a) A Seaway Transit Declaration Form (Cargo and Passenger) shall be forwarded to the Manager by the representative of a vessel, for each vessel that has an approved preclearance except non-cargo vessels within fourteen days after the vessel enters the Seaway on any upbound or downbound transit. The form may be obtained from the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662, or the St. Lawrence Seaway Management Corporation, 202 Pitt Street, Cornwall, Ontario K6J 3P7.

* * * * *

(e) Where a Seaway Transit Declaration Form is found to be inaccurate concerning the destination, cargo or passengers, the representative shall immediately forward to the Manager a revised Declaration Form.

(f) Seaway Transit Declaration Forms shall be used in assessing toll charges in accordance with the St. Lawrence Seaway Tariff of Tolls and toll accounts shall be forwarded in duplicate to the representative or its designated agent.

(g) Where government aid cargo is declared, appropriate Canadian (Revenue Canada Customs and Excise form B-13) or U.S. (Shippers Export Declaration form 7525) customs form or a stamped and signed certification letter from the U.S. or Canada Customs must accompany the transit declaration form.

* * * * *

§ 401.75 [Amended]

20. Section 401.75 is amended by removing the phrase "or American funds, as indicated on the invoice," and adding in their place the word "funds" in paragraph (a).

21. Section 401.81 is amended by revising paragraph (a) to read as follows:

§ 401.81 Reporting an accident.

(a) Where a vessel on the Seaway is involved in an accident, the master of the vessel shall report the accident to the nearest Seaway station immediately or as soon as the vessel can make radio contact with the station.

* * * * *

§ 401.84 [Amended]

22. Section 401.84 is amended by removing the number "401.21" and adding in its place the number "401.19" in paragraph (c).

§§ 401.86, 401.87, and 401.88 [Amended]

23. In Sections 401.86, 401.87, and 401.88, remove the words "or the Authority" wherever they appear in the following places:

- a. Section 401.86 (a), (b), and (c).
- b. Section 401.87 (c), (d), and (d)(3).
- c. Section 401.88 (a)(2) and (b).

§ 401.89 [Amended]

24. Section 401.89 is amended by removing the number "401.6" and adding in its place the number "401.5" and removing the number "401.21" and adding in its place the number "401.19" in paragraph (a)(1).

25. Section 401.90 is revised to read as follows:

§ 401.90 Boarding for inspections.

(a) For the purpose of enforcing these Regulations in this part in both

Canadian and U.S. waters, an officer may board any vessel and:

(1) Examine the vessel and its cargo; and

(2) Determine that the vessel is adequately manned.

(b) In addition to § 401.90(a)(1) and (2) in Canadian waters, a Manager's officer may also:

(1) Require any person appearing to be in charge of the vessel to produce for inspection, or for the purpose of making copies or extracts, any log book, document or paper; and

(2) In carrying out an inspection:

(i) Use or cause to be used any computer system or data processing system on the vessel to examine any data contained in, or available to, the system;

(ii) Reproduce any record, or cause it to be reproduced from the data, in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying; and

(iii) Use or cause to be used any copying equipment in the vessel to make copies of any books, records, electronic data or other documents.

(c) In Canadian waters, the owner or person who is in possession or control of a vessel that is inspected, and every person who is found on the vessel, shall:

(1) Give the officer all reasonable assistance to enable the officer to carry out the inspection and exercise any power conferred by the Canada Marine Act; and

(2) Provide the officer with any information relevant to the administration of these practices and procedures that the officer may reasonably require.

§ 401.93 [Amended]

26. Section 401.93 is amended by adding the words "or its successor" after the words "*Shore Traffic Regulations*" in paragraph (b).

§ 401.94 [Amended]

27. The heading for § 401.94 is amended by removing the word "copy" and adding in its place the word "copies".

Schedule III to Subpart A [Amended]

28. Schedule III to subpart A, part 401 is amended as follows:

a. Amend item 5 by removing items 3, 4, and 5 in the third column, under the heading "Message Content", and redesignating item 6 in that column as item 3.

b. Amend item 8 by removing the words "and call sign" from item 1 in the third column, under the heading

"Message Content", by removing items 5 and 6 in that column, and adding a new item 5 in that column to read as follows, "5. All ports of call".

c. Amend item 19 by removing items 3, 4, 5, and 6 in the third column, under the heading "Message Content", and redesignating item 7 in that column as item 3.

d. Amend item 35 by removing item 3 in the third column, under the heading "Message Content".

e. Amend item 36 by removing items 3, 4, and 5 in the third column, under the heading "Message Content", and redesignating items 6, 7 and 8 in that column as items 3, 4 and 5.

f. Amend item 40 by removing items 3, 4, and 5 in the third column, under the heading "Message Content".

§§ 401.2, 401.12, 401.13, 401.22, 401.24, 401.25, 401.31, 401.34, 401.54, 401.59, 401.66, 401.72, 401.78, 401.91, 401.92, 401.93, 401.96, 401.97, and Schedule II to subpart A [Amended]

29. In addition to the amendments set forth above, in 33 CFR part 401 remove the word "Authority" and add in its place the word "Manager" in the following places:

- a. Section 401.2 (d), (e), (h), (j), and (k);
- b. Section 401.12 (a)(2) and (a)(4)(ii);
- c. Section 401.13(a);
- d. Section 401.22(a);
- e. Section 401.24;
- f. Section 401.25;
- g. Section 401.31(b);
- h. Section 401.34;
- i. Section 401.54(b);
- j. Section 401.59(d);
- k. Section 401.66(b);
- l. Section 401.72(e);
- m. Section 401.78(b);
- n. Section 401.91;
- o. Section 401.92;
- p. Section 401.93 (a) and (b);
- q. Section 401.96 (a), (b), (c), and (e);
- r. Section 401.97 (a), (b)(2), and (d); and
- s. Footnote 1 to Schedule II to subpart A, "Table of Speeds".

Issued at Washington, DC on August 24, 2000.
Saint Lawrence Seaway Development Corporation.

Albert S. Jacquez,
Administrator.

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