

those rules and principles. See Rev. Proc. 2000-50, 2000-2 C.B. 601.

**Heather C. Maloy,**

*Associate Chief Counsel (Income Tax & Accounting).*

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BILLING CODE 4830-01-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. H-371]

RIN 1218-AB46

#### Occupational Exposure to Tuberculosis

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Limited re-opening of the rulemaking record for Occupational Exposure to Tuberculosis (TB).

**SUMMARY:** The Agency is re-opening the record in the TB rulemaking to allow interested persons to review the National Academy of Sciences/Institute of Medicine (NAS/IOM) report, "Tuberculosis in the Workplace" and the comments by the peer reviewers on OSHA's draft final risk assessment. This record re-opening is limited to the draft final risk assessment, the peer review comments on that assessment, and the NAS/IOM report.

**DATES:** Comments and data must be postmarked no later than March 25, 2002. Comments submitted electronically or by FAX must be submitted by March 25, 2002.

**ADDRESSES:** Send two copies of your comments to: Docket Office, Docket H-371, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments of 10 pages or fewer may be transmitted by FAX to: 202-693-1648, provided that the original and one copy of the comment are sent to the Docket Office immediately thereafter.

You may also submit comments electronically to <http://ecomments.osha.gov>. Information such as studies and journal articles cannot be attached to electronic submissions and must be submitted in duplicate to the docket office address listed above. Such attachments must clearly identify the respondent's electronic submission by name, date, and subject, so that they can be attached to the correct submission.

The entire record for the TB rulemaking, including the peer

reviewers' reports, OSHA's draft final risk assessment and the NAS/IOM report, is available for inspection and copying in the Docket Office, Docket H-371, telephone 202-693-2350.

**FOR FURTHER INFORMATION CONTACT:**

Amanda Edens, Directorate of Health Standards Programs, Occupational Safety and Health Administration, Room N-3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 693-2270, FAX (202) 693-1678.

**SUPPLEMENTARY INFORMATION:** On October 17, 1997, OSHA published a proposed standard for Occupational Exposure to TB (62 FR 54160). In the proposal, the Agency made a preliminary determination based on a review of the available data that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures potentially involving exposure to TB.

Many persons submitted comments addressing OSHA's preliminary quantitative risk assessment and suggested that OSHA should use more current data in developing its final quantitative risk assessment. In response to these concerns, OSHA reopened the rulemaking record to solicit data and comments with respect to assessing the occupational risk of TB infection and disease (64 FR 34625, June 28, 1999). In addition, the Agency provided a draft of its final risk assessment (Ex. 184) for peer review to two experts in the fields of TB epidemiology and risk assessment. The peer reviewers selected were Dr. Richard Menzies and Dr. Mark Nicas. Dr. Menzies, Professor and Director of the Respiratory Epidemiology Unit at McGill University in Montreal, Canada, is a physician experienced in the epidemiology, diagnosis and treatment of TB and is a recognized research scientist, having published numerous scientific papers in the area of occupational exposure to and treatment of TB. Dr. Menzies is also an expert in the use of tuberculin skin testing as a diagnostic for infection. Dr. Mark Nicas, Professor at the University of California Berkeley and a Certified Industrial Hygienist, is a recognized research scientist, having published numerous scientific papers in the area of occupational exposure to TB and the development of mathematical models for TB transmission. These two reviewers evaluated the overall methodology used by OSHA in the draft final risk assessment, the

appropriateness of these studies for the exposure scenarios, the adequacy of the mathematical models, the values of the parameters used to estimate the TB case activation and death rates, the use and estimates of state background infection rates, and the uncertainties associated with the OSHA risk estimates. (Exs. 185 and 186)

In 1999, the U.S. Congress requested that the National Academy of Sciences undertake a short-term study of occupational TB (Public Law 106-113) including evaluation of the risks to health care workers due to occupational exposure to TB, the extent to which the TB guidelines of the Centers for Disease Control and Prevention are being implemented, and the effectiveness of an OSHA TB standard to protect workers from occupational exposure to TB. The report that was prepared by the IOM, the health policy arm of the Academy, was released on January 16, 2001. In view of the significance of this report, OSHA is placing it in the record for comment. (Ex. 187)

**Authority:** This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 3-2000 (65 FR 50017) and 29 CFR part 1911.

Signed at Washington, DC, this 17th day of January, 2002.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 02-1712 Filed 1-23-02; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 401

[Docket No. SLSDC 2002-11358]

RIN 2135-AA13

#### Seaway Regulations and Rules: Ballast Water

**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 to make compliance with applicable Great Lakes shipping industry codes for ballast water management practices a mandatory prerequisite for clearance of a commercial vessel for transit of the Seaway system in support of assuring the continued control of the introduction of aquatic nuisance species (ANS) in the Great Lakes Seaway System.

**DATES:** Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before February 25, 2002.

**ADDRESSES:** Signed, written comments should refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Written comments may also be submitted electronically at <http://dmses.dot.gov/submit/BlankDSS.asp>. All comments received will be available for examination between 9 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

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

**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 to make compliance with applicable Great Lakes shipping industry codes for ballast water management practices a mandatory prerequisite for clearance of a commercial vessel for transit of the Seaway system in support of assuring the continued control of the introduction of aquatic nuisance species (ANS) in the Great Lakes Seaway System. This requirement would go into effect beginning in the 2002 navigation season. This will be in addition to the existing U.S. and Canadian legal ballast water requirements as well as the

tremendous amount of undertakings at the international, national, and regional levels by government and the private sector regarding control of ANS. This rule is one more effort in the commitment of many to find a cost-effective solution that protects the Great Lakes Seaway System from ANS while facilitating commerce.

Specifically, the SLSDC, along with the SLSMC, proposes to amend the Seaway Regulations and Rules in Part 401 of title 33 of the Code of Federal Regulations by adding a new subsection (d) to “.30, “quote ballast and proper trim,” which section would be retitled “Ballast water and trim.” This new subsection would require that, to obtain clearance to transit the Seaway, every vessel entering the Seaway must agree to comply with the applicable, existing industry ballast water management practices while operating anywhere within the Great Lakes and the Seaway. This involves two types of vessels and two codes of practice respectively. Every vessel entering the Seaway after operating beyond the exclusive economic zone must agree to comply with the “Code of Best Practices for Ballast Water Management” of the Shipping Federation of Canada dated September 28, 2000. That code reads as follows:

Recognizing that discharge of ballast water from ships is viewed as a principle vector for the introduction and spread of harmful aquatic organisms and pathogens,

Recognizing the role shipowners and vessel operators can play in minimizing the introduction and spread of non-indigenous organisms and protecting the Great Lakes waters,

Considering the current status of technology for the treatment of ballast water and the need to develop standards against which to measure efficiency of management procedures;

Vessels entering into the Great Lakes commit to the following Code of best Practices For Ballast Water Management.

1. To conduct ballast water management whenever practical and at every opportunity even if the vessel is not bound for a port where such a procedure may be required. This process will ensure that residual ballast on board will, to the greatest extent possible, be subjected to these practices. This process will also aid to minimize sediment accumulations in ballast tanks, and where mid-ocean exchange is practiced, subject fresh-water organisms to an extended exposure to salt water.

Where mid-ocean ballast water exchange is the, or one of the management practices used as required by IMO, USCG, Canadian or other regulations, the safety of the ship shall be a top priority and management shall be practiced according to recognized safe practices.

2. To regular inspection of ballast tanks and removal of sediment, if necessary, to at least the level comparable to that required by

the vessel's Classification Society in order to conduct a “close-up” Enhanced Survey, Ballast Tank Structural and Coating Inspection.

3. To ballast water exchange procedures as provided for in US legislation and approved and enforced through United States Coast Guard Regulations.

4. To record keeping and reporting according to United States Coast Guard Regulations (ballast water report forms)—the master to record all uptake and discharge of ballast water in an appropriate log book; Ballast Water Report Forms to be completed and submitted as per Regulations; inspection and cleaning of ballast tanks to be recorded and records to be made available to inspectors upon request.

5. To provide information and logs to authorized inspectors and regulators for the purposes of verifying the vessel's compliance with this Code of Best Practices.

6. To apply a precautionary approach in the uptake of ballast water by minimizing ballasting operations under the following conditions:

a. In areas identified in connection with toxic algal blooms, outbreaks of known populations of harmful aquatic organisms and pathogens, sewage outfalls and dredging activity.

b. In darkness, when bottom dwelling organisms may rise in the water column.

c. In very shallow water.

d. Where a ship's propellers may stir up sediment.

e. In areas with naturally high levels of suspended sediments, e.g. river mouths, and delta areas, or in locations that have been affected significantly by soil erosion from inland drainage.

f. In areas where harmful aquatic organisms or pathogens are known to occur.

7. To the disposal of accumulated sediments as provided for in the existing IMO Ballast Water Protocols during ocean passages outside International Ballast Water Management Areas or as otherwise approved by Port State Authorities.

8. To foster and support scientific research sampling programs and analysis—Facilitate access to on board sampling and testing of ballast water and sediment including opening of ballast tank covers and safe access to ballast tanks following safety procedures for entering enclosed spaces. Sampling, testing and inspection to be planned and coordinated to fit within vessels' operational programs and minimize any delays.

9. To cooperate and participate in standards development and treatment systems testing and approval processes, including, but not limited to mechanical management and treatment systems, and pesticide management systems as well as improved techniques for ballast water exchange and their scientific assessment.

10. To strive toward global, integrated ballast water management strategies in conformity with internationally agreed principles that respect national and regional aquatic ecosystems. This Code of Best Practices is endorsed by the undersigned and represents our common goal to attain the highest standards of safe ballast water management to minimize the introduction

and spread of aquatic nuisance species in the Great Lakes.

These Federation practices already cover approximately 95% of the commercial oceangoing vessels using the Seaway.

Every other vessel entering the Seaway that operates within the Great Lakes and the Seaway must agree to comply with the "Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping" of the Lake Carriers Association and Canadian Shipowners Association dated January 26, 2001. That code reads as follows:

Owners and operators of vessels that trade within the Great Lakes and the St. Lawrence Waterway and do not go out beyond the Exclusive Economic Zone (EEZ) recognize their role in reducing the risk of transfer of Aquatic Nuisance Species. Introduction of Aquatic Nuisance Species into the Great Lakes has taken place by ships operating outside the EEZ and has caused ecosystem and economic damage. The co-sponsors of this voluntary plan will take management action to reduce the risk of transferring these species. This plan will apply to U.S. and Canadian vessels that operate entirely within the Great Lakes and St. Lawrence Waterway. Design, construction, and structural criteria on some vessels may require consideration and variance from this management practice; however, efforts will be made to comply wherever possible.

For All Vessels Operating Totally Within the Great Lakes and St. Lawrence Waterway System.

None of these practices will be undertaken if the master feels the safety of crew or ship will be compromised

1. Vessel operators will assist in developing programs such as the Duluth-Superior Harbor and Alpena, Michigan Ruffe Voluntary Ballast Management Programs should U.S. Fish and Wildlife Service or an equivalent Canadian authority determine a nuisance species has established niche communities in a specific harbor, providing that these programs will result in substantial prevention of the spread of the species or harmful organism via ballast water.

2. Each vessel will perform annual inspections to assess sediment accumulations. Removal of sediment, if necessary, will be carried out. Records of these actions will be kept onboard the ship.

3. Each company will develop sediment removal policies and plans.

4. When practical and safe, vessels will take only the minimum amount of ballast required to safely depart the dock and will complete ballasting in deeper water. Records of all ballasting operations will be kept onboard the ship.

5. Cooperation will be provided, as mutually agreed upon, for scientific research into sampling and analysis programs that will not interfere with normal and safe ship operations.

6. Cooperation will be provided, as mutually agreed upon, for developing and testing ballast water treatment systems.

7. Cooperation will be provided toward harmonization of regional ballast water practices.

These rules already cover nearly 100% of the commercial non-oceangoing vessels (lakers) using the Seaway.

The texts of both of these codes would be printed in the "Seaway Handbook," which is distributed to Seaway users by the SLSMC and the SLSDC and is also posted on the joint "Great Lakes St. Lawrence Seaway System Web" site, which can be found at <http://www.greatlakes-seaway.com/en/pdf/handbook.pdf>. If promulgated, the SLSDC and the SLSMC will assess the effectiveness of this regulation after the 2002 Seaway navigation season.

#### Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply. This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed 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 proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relates 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 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).

#### 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 chapter IV as follows:

#### PART 401—SEAWAY REGULATIONS AND RULES

##### Subpart A—[Amended]

1. The authority citation for subpart A of part 401 would continue 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. § 401.30 would be amended by revising the heading and by adding a new paragraph (d) to read as follows:

##### § 401.30 Ballast water and trim.

\* \* \* \* \*

(d) Beginning in the 2002 navigation season, to obtain clearance to transit the Seaway:

(1) Every vessel entering the Seaway after operating beyond the exclusive economic zone must agree to comply with the "Code of Best Practices for Ballast Water Management" of the Shipping Federation of Canada dated September 28, 2000, while operating anywhere within the Great Lakes and the Seaway; and

(2) Every other vessel entering the Seaway that operates within the Great

Lakes and the Seaway must agree to comply with the "Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping" of the Lake Carriers Association and Canadian Shipowners Association dated January 26, 2001, while operating anywhere within the Great Lakes and the Seaway.

Issued at Washington, D.C. on January 18, 2002.

Saint Lawrence Seaway Development Corporation.

**Marc C. Owen,**  
Chief Counsel.

[FR Doc. 02-1752 Filed 1-18-02; 2:26 pm]

BILLING CODE 4910-61-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[FRL-7131-1]

RIN 2060-AJ80

### Relaxation of Summer Gasoline Volatility Standard for the Denver/Boulder Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing approval of the State of Colorado's request to relax the Federal Reid Vapor Pressure ("RVP") gasoline standard that applies to gasoline that is supplied to the Denver/Boulder area (hereafter "Denver area") from June 1st to September 15th (the ozone control season) of each year. This action proposes to amend our regulations to change the summertime RVP standard for the Denver area from 7.8 pounds per square inch ("psi") to 9.0 psi. EPA has determined that this change to our federal RVP regulations would be consistent with criteria EPA has enumerated for making such changes: that the State has demonstrated it has sufficient alternative programs to attain and maintain the National Ambient Air Quality Standards for ozone; and that amendments are appropriate to avoid adverse local economic impacts.

In the "Rules and Regulations" section of today's **Federal Register**, we are approving this amendment to the federal RVP regulations as a direct final rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. We have explained our reasons for this approval in the preamble to the direct final rule. If we

receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by February 25, 2002.

**ADDRESSES:** Any person wishing to submit comments should submit a copy to both dockets listed below, and if possible, should also submit a copy to Richard Babst, U.S. Environmental Protection Agency, Transportation and Regional Programs Division, 1200 Pennsylvania Avenue, NW., (Mail Code: 6406J), Washington, DC 20460.

*Public Docket:* Materials relevant to this rule are available for inspection in public docket A-2001-26 at the Air Docket Office of the EPA, Room M-1500, 401 M Street, SW., Washington, DC 20460, (202) 260-7548, between the hours of 8 a.m. to 5:30 p.m., Monday through Friday. A duplicate docket CO-RVP-02 has been established at U.S. EPA Region VIII, 999 18th Street, Suite 300, Denver, CO, 80202-2466, and is available for inspection during normal business hours. Interested persons wishing to examine the documents in docket number CO-RVP-02 should contact Kerri Fiedler at (303) 312-6493 at least 24 hours before the visiting day. As provided in 40 CFR part 2, a reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Richard Babst at (202) 564-9473 facsimile: (202) 565-2085, e-mail address: babst.richard@epa.gov.

**SUPPLEMENTARY INFORMATION:** This document concerns the amendment to EPA's regulations governing the RVP of gasoline supplied to the Denver/Boulder area of Colorado. For further information, please see the information provided in the direct final rule of the same title which is located in the "Rules and Regulations" section of this **Federal Register**.

### Administrative Requirements

#### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### B. Paperwork Reduction Act

This proposed action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

#### C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal