

Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

Federalism

We have analyzed this final rule under Executive Order 13132 and have determined that, because the Federal requirement for children under 13 to wear lifejackets will not supersede or preempt any State's comparable requirement, this rule does not have implications for federalism under that Order. The Federal requirement applies only in States without comparable requirements.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531–1538] governs the issuance of Federal rules that impose unfunded mandates. An unfunded mandate is a requirement that a State, local, or tribal government, or the private sector incur direct costs without the Federal Government's having first provided the funds to pay those costs. This final rule does not impose an unfunded mandate.

Taking of Private Property

This final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Reform of Civil Justice

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule. Nor does it create an environmental risk to health or risk to safety that may disproportionately affect children; on the contrary, it advances the welfare of children.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes,

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order, because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs within OMB as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this final rule and concluded that, under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The rule requires that certain children aboard recreational vessels wear lifejackets. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 175

Marine Safety.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 175 as follows:

1. The citation of authority for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Amend § 175.3 by adding the following definition in alphabetical order to read as follows:

§ 175.3 Definitions

* * * * *

State means a State or Territory of the United States of America, whether a State of the United States, American Samoa, the Commonwealth of the Northern Marianas Islands, the District of Columbia, Guam, Puerto Rico, or the United States Virgin Islands.

* * * * *

3. Amend § 175.15 by removing from paragraph (b) the term "PFD's" and adding in its place the term "PFDs," and by adding a new paragraph (c), to read as follows:

§ 175.15 Personal flotation devices required.

* * * * *

(c) No person may use a recreational vessel unless each child under 13 years old aboard is wearing an appropriate PFD approved by the Coast Guard; or

(1) Each child not wearing such a PFD is below decks or in an enclosed cabin; or

(2) The vessel is not under way.

4. Add a new § 175.25 to subpart B, to read as follows:

§ 175.25 Adoption of States' requirements for children to wear personal flotation devices.

(a) This section applies to every operator of a recreational vessel on waters within the geographical boundaries of any State that has established by statute a requirement under which children must wear PFDs approved by the Coast Guard while aboard recreational vessels.

(b) If the applicable State's statute establishes an age under which children must wear PFDs, that age, instead of the age provided in § 175.15(c) of this part, applies within the geographical boundaries of that State.

Dated: February 15, 2002.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

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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: Final rule.

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 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.

The 2002 Seaway navigation season is scheduled to open on March 26. These amendments will be in effect in Canada on that date. For consistency, because these are joint regulations under international agreement and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make this U.S. version of the amendments effective on that date, March 26, 2002.

DATES: This rule is effective on March 26, 2002.

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. A Notice of Proposed Rulemaking was published on January 24, 2002 (67 FR 3465). Interested parties have been afforded an opportunity to participate in the making of the amendments applicable in the United States. No comments were received. The amendments are described in the following summary.

Under agreement with the SLSMC, the SLSDC is amending 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 will go into effect beginning in the 2002 navigation season. This is 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, is amending the Seaway Regulations and Rules in Part 401 of title 33 of the Code of Federal Regulations by adding a new subsection (d) to § 401.30, "Adequate ballast and proper trim," which section is retitled "Ballast water and trim." This new subsection requires 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-

ocean-going vessels (lakers) using the Seaway. The texts of both of these codes will 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>. The SLSDC and the SLSMC will assess the effectiveness of this regulation after the 2002 Seaway navigation season.

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 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 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 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 rule under the principles and criteria in Executive Order 13132, Dated August 4, 1999, and has determined that the rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this 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 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 amends 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 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. § 401.30 is 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, DC, on February 25, 2002.