

Hernandez Airport. The reference used in the legal descriptions to impart a part-time operation of the Class D and E Airspace designated as an extension to Class D surface area (E4) is being removed. The Class E airspace designated as surface area for an airport (E2) will no longer be required since the Class D Airspace will be in effect continuously, thus, this amendment removes that E2 airspace associated with Aguadilla, PR. Controlled airspace extending upward from the surface of the Earth is required to encompass the airspace necessary for instrument approaches for aircraft operating under Instrument Flight Rules (IFR). The current Class D and E4 airspace areas are sufficient for these approaches; no additional controlled airspace must be defined. Designations for Class D and E airspace areas extending upward from the surface of the Earth are published in FAA Order 7400.9S, signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D and E designations listed in this document will be published subsequently in the Order.

#### Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the

authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Aguadilla, PR.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, effective October 31, 2008, is amended as follows:

#### Paragraph 5000 Class D Airspace.

\* \* \* \* \*

#### ASO PR D Aguadilla, PR [REVISED]

Rafael Hernandez Airport, PR  
(Lat. 18°29'42" N., long 67°07'46" W.)

That airspace extending upward from the surface of the Earth to and including 2,700 feet MSL within a 4.5-mile radius of the Rafael Hernandez Airport.

\* \* \* \* \*

#### Paragraph 6002 Class E Airspace Designated as Surface Areas.

\* \* \* \* \*

#### ASO PR E2 Aguadilla, PR [REMOVE]

Rafael Hernandez Airport, PR

\* \* \* \* \*

#### Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

\* \* \* \* \*

#### ASO PR E4 Aguadilla, PR [REVISED]

Rafael Hernandez Airport, PR

(Lat. 18°29'42" N., long 67°07'46" W.)

Borinquen VORTAC

(Lat. 18°29'53" N., long 67°06'30" W.)

That airspace extending upward from the surface within 2.4 miles each side of the Borinquen VORTAC 257° radial extending from the 4.5 mile radius to 7 miles west of the VORTAC.

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Issued in College Park, Georgia, on February 25, 2009.

**Barry A. Knight,**

*Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 402

[Docket No. SLSDC 2009–0003]

RIN 2135–AA29

#### Tariff of Tolls

**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 Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada. The Tariff of Tolls became effective in Canada in 2008. For consistency, because these are, under international agreement, joint regulations, 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 upon publication. (See **SUPPLEMENTARY INFORMATION.**)

**DATES:** This rule is effective on March 12, 2009.

**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 Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising 33 CFR 402.8, "Schedule of tolls", to reflect the fees and charges levied by the SLSMC in Canada since 2008. The changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the SLSDC on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)). Accordingly, no notice or comment is necessary on these amendments.

### 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>.

### Regulatory Evaluation

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

### Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls 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 regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment.

### Federalism

The Corporation has analyzed this 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 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 402

Vessels, Waterways.

■ Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR Part 402, Tariff of Tolls, as follows:

### PART 402—TARIFF OF TOLLS

■ 1. The authority citation for Part 402 continues to read as follows:

**Authority:** 33 U.S.C. 983(a), 984(a)(4) and 988, as amended; 49 CFR 1.52.

■ 2. Section 402.3 is amended by:

- a. Removing paragraphs (k) and (l);
- b. Removing the first-level paragraph designations from paragraphs (a) through (j) and (m) through (p); and
- c. Adding the following new definitions in alphabetical order to read as follows:

#### § 402.3 Interpretation.

\* \* \* \* \*

*Carrier* means any company, or its representative, engaged in physically moving a cargo between an origin and a destination.

*Commodity* means cargo that has been defined as a commodity in the Manager's then current publicly announced commodity codes.

*Closing Date* means in respect of a year, the first date in such year after the opening date on which both the Montreal-Lake Ontario portion and the Welland Canal portion of the Seaway are closed for vessel traffic.

\* \* \* \* \*

*Great Lakes/St. Lawrence Seaway System* means all ports in the Great Lakes and the St. Lawrence River.

*Incremental volume* means the portion of tonnage shipped through the Seaway by a specific shipper/receiver in a given season, above the pre-approved maximum tonnage realized by that specific shipper/receiver over the previous five (5) navigation seasons.

\* \* \* \* \*

*Maximum volume* means the highest total annual tonnage of a specific commodity that a shipper/receiver has shipped through the Seaway over the previous 5 years.

\* \* \* \* \*

*Navigation season* means the period commencing on an opening date and ending on the next closing date.

*New Business* means:

(1) Containerized cargo moved by ship in the Seaway at any time in a navigation season;

(2) A commodity/origin/destination combination in which the commodity moved by ship in the Seaway at any time in a navigation season:

(i) Originating at a point inside Canada or the United States of America or at a country outside Canada or the United States of America, provided that such commodity has not originated from such point or country, as the case may be, at any time in any of the five consecutive navigation seasons immediately preceding the then current navigation season;

(ii) Destined to a point inside Canada or the United States of America or a country outside Canada or the United States of America, provided that such commodity has not been destined to such point or country, as the case may be, at any time in any of the five consecutive navigation seasons immediately preceding the then current navigation season;

(iii) Originating at a point inside Canada or the United States of America or a country outside Canada or the United States of America and destined to a point inside Canada or the United States of America or a country outside Canada or the United States of America, provided that such Commodity was previously moved, in lieu of movement by ship, by any mode of transportation other than by ship at all times in the five consecutive navigation seasons immediately preceding the then current navigation season; or

(iv) That has not moved through either section of the Seaway in any of the five consecutive navigation seasons immediately preceding the then current navigation season, in a volume exceeding 10,000 metric tons.



Item/description of charges  Column 1	Rate (\$) Montreal to or from Lake Ontario (5 locks)  Column 2	Rate (\$) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)  Column 3
3. Minimum charge per vessel per lock transited for full or partial transit of the Seaway.	25.00 .....	25.00.
4. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes <sup>2</sup> .	25.00 <sup>3</sup> .....	25.00.
6. Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period.	20% .....	20%.
7. Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume.	10% .....	10%.

<sup>1</sup> Or under the US GRT for ships prescribed prior to 2002.

<sup>2</sup> The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is \$30 U.S. or \$30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 998a(a)).

<sup>3</sup> Pleasure craft rates-subject to change in subsequent years.

**§ 402.6 [Redesignated as § 402.8]**

■ 10. Section 402.6 is redesignated as § 402.8 and amended by revising the heading and paragraphs (a) and (b) to read as follows:

**§ 402.8 Post-clearance date operational surcharges.**

(a) Subject to paragraph (b) of this section, a vessel that reports for its final transit of the Seaway from a place set out in column 1 of § 402.11 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of 402.11 shall pay operational surcharges in the amount set out in column 3 of 402.11, prorated on a per-lock basis.

(b) If surcharges are postponed for operational or climatic reasons, a vessel that reports for its final transit of the Seaway from a place set out in column 1 within a period after the clearance date established by the Manager and the Corporation set out in column 2 shall pay operational surcharges in the amount set out in column 3, prorated on a per-lock basis.

\* \* \* \* \*

■ 11. A new § 402.6 is added to read as follows:

**§ 402.6 Volume Rebate Incentive program**

(a) To be eligible to the Volume Rebate Incentive program:

(1) A shipper/receiver in the Great lakes/St. Lawrence Seaway System must submit to the Manager for approval, before June 30th of every season, the commodity, as defined under the Manager's commodity classification, for which a Volume Rebate is sought, the origin or destination of the commodity, and a proof of the maximum volume of the commodity the shipper/receiver has shipped over the last 5 years from that origin or to that destination.

(2) The shipper/receiver must already move the commodity, as defined under the Manager's commodity classification, through the Seaway at a minimum of 100,000 tonnes per season for the past five navigation seasons.

(b) Once approved by the Manager, the maximum volume will become the basis on which to calculate the incremental volume.

(c) The Volume Rebate Incentive program is not accessible at the end of the navigation season without a pre-approved maximum volume within the set deadline.

(d) The same cargo volume can only be used by one shipper/receiver.

(e) For the Volume Rebate to be applicable, the total volume of the commodity shipped through the Seaway must also increase during the navigation season.

Issued at Washington, DC on March 2, 2009.

Saint Lawrence Seaway Development Corporation.

**Collister Johnson, Jr.,**  
*Administrator.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

**[EPA-R06-RCRA-2008-0418; SW-FRL-8776-4]**

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is granting a petition submitted by Bayer Material Science in Baytown, Texas to exclude (or delist) the toluene diisocyanate (TDI) residues generated from its facility located in Baytown, Texas from the lists of hazardous wastes. This final rule responds to the petition submitted by Bayer Material Science to delist K027 TDI residues generated from the facility's distillation units.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 9,780 cubic yards per year of the K027 residues. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when it is disposed in a Subtitle D Landfill.

**DATES:** *Effective Date:* March 12, 2009.

**ADDRESSES:** The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA Freedom of Information Act review room on the 7th floor from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The reference number for this docket is EPA-R06-RCRA-2008-0418. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C),