**§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.**

* * * * *

(t) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (5) and (8); and (g) of the Privacy Act:

(1) Law Enforcement National Data Exchange (N–DEx), (JUSTICE/FBI–020).

(2) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system, or the overall law enforcement process, the applicable exemption may be waived by the FBI in its sole discretion.

(u) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any investigative interest in the individual. Revealing this information may thus compromise ongoing law enforcement efforts. Revealing this information may also permit the record subject to take measures to impede the investigation, such as destroying evidence, intimidating potential witnesses or fleeing the area to avoid the investigation.

(2) From subsection (c)(4) because this system is exempt from the access and amendment provisions of subsection (d).

(3) From subsections (d)(1), (2), (3), and (4), because these provisions concern individual access to and amendment of investigatory records, compliance with which could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of the FBI and other law enforcement agencies; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing investigations and other law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement purposes and, in fact, a major tenet of the N–DEx information sharing system is that the relevance of certain information may not always be evident in the absence of the ability to correlate that information with other existing law enforcement data.

(5) From subsection (e)(2) because application of this provision could present a serious impediment to efforts to solve crimes and improve homeland security in that it would put the subject of an investigation on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(6) From subsection (e)(3) because disclosure would put the subject of an investigation on notice of that fact and would permit the subject to engage in conduct intended to thwart that activity.

(7)(i) From subsection (e)(5) because many of the records in this system are records contributed by other agencies and the restrictions imposed by (e)(5) would limit the utility of the N–DEx system. All data contributors are expected to ensure that information they share is relevant, timely, complete and accurate. In fact, rules for use of the N–DEx system will require that information be updated periodically and not be used as a basis for action or disseminated beyond the recipient without the recipient first obtaining permission from the record owner/contributor. These rules will be enforced through robust audit procedures. The existence of these rules should ameliorate any perceived concerns about the integrity of the information in the N–DEx system. Nevertheless, exemption from this provision is warranted in order to reduce the administrative burden on the FBI to vouch for compliance with the provision by all N–DEx data contributors and to encourage those contributors to share information the significance of which may only become apparent when combined with other information in the N–DEx system.

(ii) The FBI is also exempting the N–DEx from subsection (e)(5) in order to block the use of a challenge under subsection (e)(5) as a collateral means to obtain access to records in the N–DEx. The FBI has exempted these records from the access and amendment requirements of subsection (d) of the Privacy Act in order to protect the integrity of law enforcement investigations. Exempting the N–DEx system from subsection (e)(5) complements this exemption and will provide the FBI with the ability to prevent the assertion of challenges to a record's accuracy, timeliness, completeness and/or relevance under subsection (e)(5) to circumvent the exemption claimed from subsection (d).

(8) From subsection (e)(8), because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on the FBI and may alert the subjects of law enforcement investigations to the fact of those investigations, when not previously known.

(9) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: February 14, 2008.

**Kenneth P. Mortensen,**

*Acting Chief Privacy and Civil Liberties Officer, Department of Justice.*

[FR Doc. E8–3433 Filed 2–22–08; 8:45 am]

**BILLING CODE 4410–02–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[DoD–2006–OS–0023; RIN 0790–AH95]**

### 32 CFR Part 240

### Financial Assistance to Local Educational Agencies (LEAs)

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is removing 32 CFR Part 240, ''Financial Assistance to Local Educational Agencies (LEAs).'' The part has served the purpose for which it was intended and is no longer valid.

**DATES:** *Effective Date:* February 25, 2008.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum, 703–696–4970.

**SUPPLEMENTARY INFORMATION:** DoD Instruction 1342.18 was originally codified as 32 CFR part 240. This Instruction was reissued on February 6, 2006 and will no longer be codified in the Code of Federal Regulations. Copies of DoD Instruction 1342.18 may be obtained at *http://www.dtic.mil/whs/directives/.*

**List of Subject in 32 CFR Part 240**

Elementary and secondary education; Federally affected areas; Grant programs-education.

■ Accordingly, by the authority of 10 U.S.C., title 32 of the Code of Federal Regulations is amended by removing part 240:

**PART 240—[REMOVED]**

Dated: February 19, 2008.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. E8–3479 Filed 2–22–08; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

### 33 CFR Part 401

**[Docket No. SLSDC 2007–0005]**

**RIN 2135–AA27**

### Seaway Regulations and Rules: Periodic Update, Various Categories

**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 by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway after having operated outside the exclusive economic zone (EEZ) with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These amendments are necessary to take account of updated procedures and will eliminate the confusion regarding the requirements for saltwater flushing in the binational waters of the Seaway System.

**DATES:** The final rule will be effective March 26, 2008.

**FOR FURTHER INFORMATION CONTACT:** Carrie Bedwell Mann, Chief Counsel, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–0091.

**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 amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway after having operated outside the exclusive economic zone (EEZ) with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway and eliminate the confusion regarding the requirements for saltwater flushing of ballast tanks containing only residual amounts of water and/or sediment in the binational waters of the Seaway. Several of the amendments are merely editorial or clarification of existing requirements. Where new requirements or regulations are being made, an explanation for such a change is provided below.

*Regulatory Notices: Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–19478) or you may visit *http://www.Regulations.gov.*

**Discussion of Comments**

From the Notice of Proposed Rulemaking, 72 FR 74247, we received 15 letters or other forms of correspondence on the proposed regulation requiring saltwater flushing of ballast water tanks that contain residual amounts of water and/or sediment. Comments were received from: Congressman Vernon J. Ehlers, Minnesota Pollution Control Agency, Great Lakes Commission, Wisconsin Department of Natural Resources, Shipping Federation of Canada, McCabe Chapter of IWLA, National Oceanic and Atmospheric Administration, National Environmental Coalition on Invasive Species, Great Lakes United/Save The River/Alliance for the Great Lakes, Natural Resources Defense Council, the Polish Steamship Company, Ontario Ministry of Natural Resources, and 3 private citizens: Bruce Lindgren, Claire Duquette, and Dick Schwab. Most letters contained more than one comment on this issue. These included general comments as well as specific comments. We address the general comments first and then the specific comments. We did not receive any comments on the remaining proposed revisions to the joint Seaway regulations.

**General Comments**

All 15 comments supported the proposed regulations. Eleven (11) of the commenters: Congressman Ehlers, McCabe Chapter of the IWLA, the Wisconsin Department of Natural Resources, Great Lakes Commission, National Oceanic and Atmospheric Administration, National Environmental Coalition on Invasive Species, Great Lakes United, National Wildlife Federation, National Resources Defense Council, Mr. Schwab and Mr. Lindgren, stated that while the regulation is an important step in the right direction, more needs to be done to reduce invasions of aquatic nuisance species (ANS).

The SLSDC agrees with these comments and wants to emphasize that this regulation is intended to be an interim solution while the U.S. Coast Guard, the lead Federal agency charged with regulating ballast water discharges, completes its ballast water discharge standard rulemaking and the U.S. Congress continues work on National legislation to address this important issue. We will continue to work with the U.S. Coast Guard and our Canadian counterparts on efforts to combat the introduction of aquatic nuisance species. We will share the comments received in this docket with the U.S. Coast Guard to aid in their efforts to develop a discharge standard.

Seven (7) commenters: McCabe Chapter of the IWLA, Congressman Ehlers, Shipping Federation of Canada, Minnesota Pollution Control Agency, National Environmental Coalition on Invasive Species, Great Lakes United, National Wildlife Federation, acknowledge and support the need to harmonize the U.S. regulations with the Canadian regulations requiring saltwater