

(i) Are used to protect the safety of life, health, or property; and
 (ii) Are not commercially available to the public;

(2) Initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(3) Noncommercial educational and public broadcast stations described under 47 U.S.C. 397(6).

Note to § 1.2102: To determine the rules that apply to competitive bidding, specific service rules should also be consulted.

§ 101.1209 [Corrected]

2. On page 6107, in the second column, line 55, replace "(A)" with "(1)".

3. On page 6107, in the third column, line 1, replace "(B)" with "(2)".

4. On page 6107, in the third column, line 4, replace "(C)" with "(3)".

5. On page 6107, in the third column, line 8, replace "(D)" with "(4)".

Dated: February 24, 1998.

Daniel B. Phythyon,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 98-5466 Filed 3-4-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-292]

Organization and Delegation of Powers and Duties; Great Lakes Pilotage

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation hereby revokes the

authority delegated to the Administrator for the Saint Lawrence Seaway Development Corporation to carry out the functions vested in the Secretary by the Great Lakes Pilotage Act of 1960, as amended (46 U.S.C. 9301 *et seq.*) and delegates that authority to Commandant of the Coast Guard. This responds to a ruling of the U.S. Court of Appeals for the District of Columbia Circuit that vacates a December 11, 1995, final rule transferring oversight of Great Lakes pilotage functions to the Saint Lawrence Seaway Development Corporation.

EFFECTIVE DATE: This rule is effective March 5, 1998.

FOR FURTHER INFORMATION CONTACT:

Gwyneth Radloff, Office of the General Counsel, Department of Transportation, C-50, (202) 366-9306, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In 1994, the Secretary formed a study group to determine where best to locate the Secretary's authority to carry out the functions vested in him by the Great Lakes Pilotage Act of 1960, as amended, and his authority to enter into, revise, or amend arrangements with Canada under the 1977 Memorandum of Arrangements with Canada. This authority extends to such matters as examination and registration of pilots and setting the rates for their services. The study group recommended transferring this responsibility from the Coast Guard to the St. Lawrence Seaway Development Corporation. On December 11, 1995, the Secretary of Transportation issued a rule revoking the then-existing delegation of pilotage authority to the Coast Guard and re delegating oversight of Great Lakes Pilotage functions to the Saint Lawrence Seaway Development Corporation. On November 12, 1997, the U.S. Court of Appeals for the District of Columbia Circuit, in *Halverson v.*

Slater, 129 F.3d 180 (D.C. Cir. 1997), reversed a district court decision, and held that the Secretary of Transportation lacks the authority under 49 U.S.C. 322(b) to delegate Great Lakes Pilotage Act powers and duties to the Saint Lawrence Seaway Development Corporation. The court held that under 46 U.S.C. 2104(a) the Secretary only has authority either to keep those powers and duties within the Office of the Secretary or to delegate them to the U.S. Coast Guard.

The 1995 rule vacated by the court decision revoked an earlier delegation of this authority to the U.S. Coast Guard and removed the relevant sections from the Code of Federal Regulations (CFR). The Department is acting now to settle the question of where the authority will reside after the court's decision. This action requires changes to the CFR.

This rule responds to the U.S. Court of Appeals ruling by formally revoking the delegation to the Saint Lawrence Seaway Development Corporation and delegating to the Commandant of the Coast Guard the authority to carry out the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, and his authority to enter into, revise, or amend arrangements with Canada.

Following the issuance of the Court's decision, the Department undertook an outreach effort to elicit industry views concerning the administration of pilotage functions. The Secretary's decision to transfer the pilotage function to the Coast Guard takes into account the views expressed in these meetings, as well as the Department's own review of the best placement of the administration of the pilotage function given the limited options available under the Circuit Court's opinion.

This rule amends 49 CFR 1.52 by deleting the authority of the SLSDC Administrator to carry out the Great Lakes Pilotage Act of 1960 and enter into, revise, or amend arrangements with Canada contained in paragraphs (d) and (e). The rule establishes the authority of the Commandant of the Coast Guard to carry out the functions vested in the Secretary by the Great Lakes Pilotage Act of 1960 by adding paragraphs (mmm) and (nnn) to 49 CFR 1.46.

This rule is being published as a final rule and is being made effective on the date of publication. It relates to departmental management, organization, procedure, and practice. The Department also faces a short timeframe for complying with the court decision and wishes to avoid confusion about where this function will reside. For these reasons, the Secretary for good cause finds, under 5 U.S.C. 553(b)B and (d)(3), that notice and public procedure

on the rule are unnecessary and that this rule should be made effective in less than 30 days after publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies), Transportation Department.

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 is revised as follows:

Authority: 49 U.S.C. 2104(a); Pub. L. 101–552; 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2), 46 U.S.C. 2104(a).

§ 1.52 [Amended]

2. In § 1.52, paragraphs (d) and (e) are removed and reserved.

3. Section 1.46 is amended by adding new paragraphs (mmm) and (nnn) to read as follows:

§ 1.46 Delegations to the Commandant of the Coast Guard.

* * * * *

(mmm) Carry out the Great Lakes Pilotage Act of 1960, as amended, (46 U.S.C. 9301 *et seq.*).

(nnn) Under the 1977 Memorandum of Arrangements with Canada and the Great Lakes Pilotage Act of 1960, as amended in 1983 (46 U.S.C. 9305), enter into, revise, or amend arrangements with Canada.

Issued in Washington, DC this 26th day of February, 1998 under authority contained in 46 U.S.C. 2104(a).

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 98–5526 Filed 3–4–98; 8:45 am]

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