

criminal or civil proceedings, provided, the case is directly related to the Armed Services, or its members, and the Armed Services have a genuine and compelling interest in the outcome.

Dated: January 14, 1992.

Wayne T. Baucino,
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
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DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corp.

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority proposed and the Corporation agreed that the definition of "feed grains" will be revised to include meal from these grains for animal consumption, which will eliminate inequity in the treatment of this meal relative to competing products. The Authority also proposed and the Corporation agreed that the volume discount will be amended as follows: To allow the discount to be based upon commodities shipped from a particular origin, that is a particular country outside of North America and a particular port within North America; that the amount shipped must exceed the five navigation season average by 100,000 tons; and that cargoes subject to new downbound or upbound business refunds not be used in the calculations for volume discounts. This is intended to increase use of this discount and make it more practical.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-0091.

SUPPLEMENTARY INFORMATION: The definition of "feed grains" in section 402.3(g) is amended to include meal from the other types of feed grains for animal

consumption. These meal products have been subject to the higher bulk rate even though they compete with other feed grains in feed formulations. The amendment will eliminate this inequity. The volume discount in § 402.11 also is amended as follows: To allow the discount to be based upon commodities shipped from a particular origin, that is a particular country outside of North America and a particular port within North America; to provide that the amount shipped must exceed the five navigation season average by 100,000 tons; and to provide that cargoes subject to new downbound or upbound business refunds not be used in the calculations for volume discounts. The principal purpose of this amendment is to allow rebates under this section to be more effectively available to prospective beneficiaries of volume rebates. By being calculated on the basis of port as well as commodity, it is believed that eligible Seaway users will increase their shipments through the system. In addition, the present volume rebate method can result in increases in shipments from one port being negated by decreases from another port. It is believed that the amendment resolves this situation.

No comments were received in response to the September 19, 1991 (56 FR 47431), Notice of Proposed Rulemaking. An exchange of diplomatic notes between Canada and the United States approving this amendment occurred on December 20, 1991.

Regulatory Evaluation

This final rule involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This final rule has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and this final rule 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 final rule will not only have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This final rule 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.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends part 402—Tariff of Tolls (33 CFR part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981-990.

2. In § 402.3, paragraph (g) is revised to read as follows:

§ 402.3 Interpretation.

(g) Feed grains means barley, corn, oats, flaxseed, rapeseed, soybeans, field crop seeds, grain screenings, and meal from these grains for animal consumption;

3. Section 402.11 is revised to read as follows:

§ 402.11 Volume discount.

(a) A volume discount shall be granted to carriers at the end of the 1991, 1992, and 1993 navigation seasons after payment of the full tolls specified in the schedule under the tariff in § 402.8 of this part if shipments of a commodity from a particular origin exceed the average amount of shipments from that origin for that commodity in the Seaway during the five navigation seasons immediately preceding the season in which the volume discount is applied by an amount of at least 100,000 tons. The volume discount shall be equal to a 20 percent reduction of the portion of the composite toll related to charges per metric ton of cargo paid for the shipments that surpass the average for the preceding five seasons. The volume discount shall be applied on a pro rata basis to all carriers of the particular commodity from that origin within one navigation season.

(b) For the purposes of this section, "origin" means the country at which the cargo is loaded, except if the cargo is loaded in North America, "origin" means the country at which the cargo is loaded.

(c) If the conditions in paragraphs (a) and (b) of this section are met, a volume discount shall be granted with respect to the following commodities:

- (1) Grain;
- (2) Other agricultural products;

- (3) Iron ore;
- (4) Other mine products;
- (5) Coal;
- (6) Coke;
- (7) Petroleum products;
- (8) Chemicals;
- (9) Stone;
- (10) Salt;
- (11) Other bulk cargo;
- (12) Iron and steel;
- (13) Other general cargo;
- (14) Containers.

(d) Cargoes having been the subject of a new downbound or new upbound business refund shall be excluded from the statistics used for the calculation of volume discounts.

(e) Notwithstanding anything in this Tariff (33 CFR part 402), a carrier shall not obtain, at the end of a navigation season, both a volume discount and a new downbound or upbound business refund with respect to the same shipment, but a carrier shall obtain the greater of the said discount or refund.

Issued at Washington, DC on January 13, 1992.

The Saint Lawrence Seaway Development Corporation.

Stanford E. Parris,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA5-1-5380; FRL-4039-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Iowa Department of Natural Resources (IDNR) has submitted revisions to its open burning rule, 23.2. The revisions approve exemptions for the burning of trees and agricultural structures. EPA is taking final action to approve these revisions in the Iowa State Implementation Plan (SIP).

DATES: This action will be effective March 23, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the state submittal for this action are available for public inspection during normal business hours at: The Environmental Protection Agency, Region VII, Air

Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Environmental Protection Division, Iowa Department of Natural Resources, Henry A. Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603 (FTS 276-7603).

SUPPLEMENTARY INFORMATION: On October 3, 1991, the Iowa Department of Natural Resources submitted a revision to its SIP which includes revisions to Iowa Pollution Control Rule 23.2—Open burning, Chapter 23—Emission Standards For Contaminants. This revision was effective in the state on September 12, 1990.

The minor rule revisions consisted of three changes to rule 23.2. First, 23.2(3) Exemptions, paragraph b—diseased trees, was replaced in its entirety with language that exempts from the open burning prohibition trees and tree trimmings not originating on the premises, provided the burning is controlled and operated by a local governmental entity. Old paragraph 23.2(3)b exempted only diseased trees. Diseased trees would still be exempt from the open burning prohibition under the revised rule. The exemption would not be permitted in major urban areas of the state.

Second, rule 23.2(3) is revised by adding a new paragraph "i" to exempt the open burning of agricultural structures in rural areas. The rule states this exemption is applicable only if, among other things, the agricultural structures are outside of cities or towns, have had all chemicals and asphalt shingles removed, and permission is obtained from the local fire chief in advance of burning. Also, rubber tires shall not be used to ignite the structures. A definition of "agricultural structures" is provided.

Third, rule 23.2(4)—Unavailability of exemptions in certain areas, was revised to be consistent with revised subrule 23.2(3)b pertaining to trees or tree trimmings, rather than diseased trees.

EPA believes that these rule revisions will not cause or contribute to any violation of the National Ambient Air Quality Standard, especially with respect to particulate matter. There are no nonattainment areas for particulate matter in Iowa. Furthermore, the open burning is restricted to rural areas where ambient particulate levels are well within the standard.

The state provided proper public notice of the proposed revisions and

made available the opportunity for public comment and hearing. The revised rule was adopted by the Iowa Environmental Protection Commission and became effective on September 12, 1990.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective March 23, 1992 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective March 23, 1992.

EPA Action

EPA is taking final action to approve a revision to Iowa rule 23.2 pertaining to open burning.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), EPA certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by March 23, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

November 25, 1991.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(56) to read as follows:

§ 52.820 Identification of plan.

(c) * * *

(56) Revised Chapter 23, rule 23.2, submitted on October 3, 1991, incorporates changes to the open burning rule.

(i) Incorporation by reference.

(A) Amendment to Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code, subrule 23.2, adopted by the Environmental Protection Commission, effective September 12, 1990.

(ii) Additional information.

(A) Letter from Allan Stokes, IDNR, to William Spratlin, dated October 3, 1991.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

RIN 0905-AC68

Criteria for Designation of Mental Health Professional Shortage Areas

AGENCY: Public Health Service, HHS.
ACTION: Final rule.

SUMMARY: This final rule amends the existing regulations governing the criteria for designation of health manpower shortage areas, or HMSAs (now health professional shortage areas, or HPSAs; name changed by Public Law 101-597, the National Health Service Corps Revitalization Amendments of 1990) under section 332 of the Public

Health Service Act. Specifically, this amendment revises the existing criteria for designation of HMSAs having shortages of psychiatric manpower, transforming them into criteria for designation of HPSAs having shortages of mental health professionals, to take into account not only psychiatrists but also mental health service providers other than psychiatrists. The intended effect of this amendment is to more accurately assess the supply of mental health service providers when making shortage area determinations. This notice also summarizes the comments received by the Department on the Notice of Proposed Rulemaking published on August 8, 1989, which set forth the proposed methodology for making this and other changes to the HMSA criteria. It also formally changes "HMSA" to "HPSA" throughout the regulation, to conform with Public Law 101-597.

EFFECTIVE DATE: This rule will be effective upon publication.

FOR FURTHER INFORMATION CONTACT:

Richard C. Lee, Director, Office of Shortage Designation, Bureau of Health Care Delivery and Assistance, Health Resources and Service Administration, Parklawn Building Room 4-101, 5600 Fishers Lane, Rockville, Maryland 20857 (telephone: 301-443-6932).

SUPPLEMENTARY INFORMATION: Section 332 of the Public Health Service Act, as amended by Public Law 101-597, requires the Secretary to establish, by regulation, criteria for the designation of Health Professional Shortage Areas (HPSAs). The regulations setting forth these criteria are codified at 42 CFR part 5. On August 8, 1989, the Department published a Notice of Proposed Rulemaking (NPRM) which proposed certain changes to the then-HMSA criteria, and requested public comments. The NPRM proposed to revise appendix C of the existing regulations, until now entitled "Criteria for Designation of Areas having Shortages of Psychiatric Manpower," to take into account clinical (or "health-service-provider") psychologists, clinical social workers and psychiatric nurse specialists, as well as psychiatrists, in the designation of mental health manpower shortage areas. It also proposed a new minimum size-of-shortage criterion for primary care, dental and mental health HMSAs.

Seventy letters were received commenting on various aspects of the proposed changes to the HMSA criteria. The Secretary would like to thank the respondents for the quality and thoroughness of their comments. As a result of these comments, the Department has reconsidered its

position on a number of issues raised and made modifications accordingly. The comments and the Department's responses are discussed below, arranged according to the subjects raised.

Minimum Size-of-Shortage Criterion

Fifty of the seventy letters received dealt with the one proposed change that applied not only to the psychiatric or mental health HMSA criteria, but also to the primary medical care and dental HMSA criteria, i.e. the imposition of a new minimum size-of-shortage criterion. Under the proposed change, a computed need for at least 1.0 additional full-time-equivalent (FTE) practitioner (to lower the population-to-practitioner ratio to the minimum level already required by the criteria for designation) would have to exist within the area or population under consideration for HMSA designation, unless the area or population was already served by less than 0.2 FTE practitioners.

As many of the commentors point out, this change would eliminate about 1/3 of all primary medical care HMSA designations. The NPRM stated that most of the affected primary care and dental HMSAs would have had very low priorities for placement and, therefore, were already unlikely to receive National Health Service Corps (NHSC) personnel. However, as a large number of the commentors point out, many Federal and State programs other than the NHSC are dependent on HMSA designations. In the areas that would lose their designations, both existing NHSC sites and these other programs would be in jeopardy. According to the House and Senate Rural Health Caucus and other commentors, this change would have a severe negative impact on rural and frontier areas. Other commentors stated that this change would also artificially reduce the number of HMSAs, implying a decline in the need for health professionals when problems with recruitment and retention are, in fact, a major current concern for community health centers in HMSAs.

Some commentors suggested that the proposed change was an effort to solve a placement problem—too many areas requesting the few available NHSC practitioners—with a change to the shortage criteria that would reduce the number of HMSAs. One commentor expressed concern that population group designations would be particularly jeopardized by the proposed size-of-shortage change because they have a smaller population base.

The Department recognizes and appreciates the concerns raised about