

and their employees, individual pilots, professional maritime organizations, shipping associations, port authorities, labor organizations, marine service companies, an environmental group, one State regulatory agency, and interested members of the public.

The interim final rule was supported in comments from Members of Congress, individual members of the public, port authorities, labor organizations, professional maritime organizations, pilot organizations, pilots, a pilot association and its employees, and marine service companies. Among the organizations supporting the rule is the owner and operator of one of the largest fleet of Great Lakes-dedicated deep sea ships; this organization is also one of the largest consumers of pilotage services in the St. Lawrence Seaway system. Also in support of the rule was the Association of Great Lakes Ports, representing the public port authorities of Green Bay, Milwaukee, Chicago, Burns Harbor, Detroit, Monroe, Toledo, Cleveland, Erie, Ogdensburg, Superior, and Oswego. Comments in support of the transfer of delegation also came from the International Longshoremen's Association (ILA) and individual ports, representing approximately 95,000 members and associated parties. A subgroup of the ILA, representing approximately 10,000 members, the International Organization of Masters, Mates and Pilots, is in favor of transferring delegation from the Coast Guard, but want it moved to an "Undersecretary" in the Department. Of the three Great Lakes pilot associations, District 2 favors the transfer to SLSDC. As of the close of the comment period, there were 12 pilots in District 2.

Those in favor gave the following reasons in support of the transfer of delegation: (1) the SLSDC is a smaller organization than the Coast Guard, and it can significantly reduce the amount of "red tape" associated with pilotage oversight; (2) the SLSDC is a civilian agency, and it can guarantee a civilian Director of Great Lakes Pilotage with better continuity than a military Director; (3) the SLSDC's focus is on the Great Lakes; (4) pilotage issues would receive more attention from the Administrator of the SLSDC and the Secretary of Transportation; and (5) the SLSDC's interaction with all elements of the Great Lakes community would give the pilots significant new contacts with their customer base.

The interim final rule was opposed in comments from Members of Congress and State legislators, pilot associations and their employees, individual pilots, professional maritime organizations,

shipping associations, an environmental group, one State regulatory agency, and interested members of the public.

Among the organizations opposed to the transfer are the American Pilots Association, Save The River, Inc., Lake Carriers' Association, and the Association of International Ship Masters, which represents about 3,000 to 5,000 members. Of the three Great Lakes pilot associations, Districts 1 and 3 oppose the transfer. As of the close of the comment period, there were 9 pilots in District 1 and 19 pilots in District 3.

Those objecting to the transfer of authority did so for the following reasons: (1) The SLSDC is primarily concerned with economic and financial issues, and, because of this focus, it will sacrifice safety by reducing American pilotage jobs and pay, increasing hours of service, or taking other actions that will have an impact on the working conditions of pilots and, therefore, the protection of the environment; (2) many of the functions being transferred to the SLSDC are related to both safety and economics; (3) the SLSDC does not have the knowledge to oversee pilotage or negotiate with Canadian officials regarding pilotage issues; (4) the Coast Guard's recent transfer of Great Lakes pilotage oversight to the newly-established National Maritime Center (NMC) reduces red tape, and establishes a civilian Director without the need for a transfer; (5) the fate of the SLSDC is in transition because of the DOT's restructuring plans, and this restructuring will remove the SLSDC and Great Lakes pilotage from government oversight; (6) there should have been more public input and more information published regarding the transfer of authority, including extensive public hearings; (7) the interim final rule violated the notice and comment requirements of the Administrative Procedure Act (APA); and (8) Congress intended that pilotage functions remain in the Coast Guard.

The Department agrees with those commenters who stated that many of the 11 functions being transferred to the SLSDC relate in part to safety as well as economics. While the interim final rule stated that those functions "are considered to have economic effects," the Department did not mean to imply that only economic functions could be transferred. The fact that there are safety ramifications involved, however, should not, and does not, disqualify SLSDC as the agency in which the authority should reside.

Some commenters opposing the rule pointed to a November 1994 Coast Guard memorandum approved by the Secretary; attached to the November

1994 memorandum is an options paper, which noted that both safety and economic functions are vested in the Director of Great Lakes Pilotage, and that the registration of pilots is a safety function. It also acknowledged that some economic issues such as travel and work-hour limits also have safety implications (e.g., their effect on fatigue). Four options for Departmental oversight of Great Lakes pilotage functions, each listing pros and cons were provided: (1) Separate safety and economic oversight; (2) retain in the Coast Guard; (3) transfer to the Office of the Secretary (OST); and (4) transfer to SLSDC/MARAD.

Included in this last option was the following statement: "A transfer to SLSDC or MARAD may have an adverse impact on safety because the mission of each agency is economic in nature and primarily associated with promotion of shipping." The memorandum that the Secretary approved recommended that the responsibility for safety aspects of Great Lakes pilotage remain with the Coast Guard, but that economic elements of pilotage oversight be transferred to another Department office or agency. It also recommended that a Great Lakes Pilotage Working Group (Working Group) be formed to develop this option.

The Working Group was formed and included representatives from OST, the Coast Guard, MARAD, and SLSDC. In developing the option that SLSDC should assume responsibility for the 11 Great Lakes pilotage functions, the Final Report of the Working Group was not inconsistent with the November 1994 memorandum, which had stated that a transfer to SLSDC may have an adverse impact on safety. The Final Report listed the functions to be transferred under the heading, "Economic Functions," and it referred to them as "essentially economic functions. * * *" The Department believes that the 11 functions are essentially, though not entirely, economic functions. The option in the November 1994 memorandum that contained the "adverse impact on safety" statement envisioned the transfer to SLSDC of not only the 11 "essentially economic" functions, but the following two safety functions as well: (1) The licensing of pilots and (2) the investigation and prosecution of marine accidents and incidents.

The Final Report judged these to be essential Coast Guard functions solely related to safety, and said they should remain with the Coast Guard. Similarly, the November 1994 memorandum intended that responsibility for only the safety aspects of Great Lakes pilotage