

enforced by the Corporation that provide, upon conviction, for punishment by fine or imprisonment is a matter finally determined by the Department of Justice. This final determination consists of deciding whether and under what conditions to prosecute or to abandon prosecution.

(b) The Corporation's Chief Counsel is hereby authorized to determine whether or not a violation of the Seaway Regulations carrying a criminal penalty is one that would justify referral of the case to the U.S. Attorney.

(c) The Corporation's Chief Counsel will identify the regulations that were violated and make specific recommendations concerning the proceedings to be instituted by the U.S. Attorney in every case.

(d) Referral of a case to the U.S. Attorney for prosecution terminates the Corporation's authority with respect to the criminal aspects of a violation.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10963, Mar. 19, 1985]

§ 401.205 Civil and criminal penalties.

(a) If the violation of the Seaway Regulations carries a criminal penalty, the Corporation's Chief Counsel is hereby authorized to determine whether to refer the case to the U.S. Attorney for prosecution in accordance with § 401.204, which outlines the appropriate procedure for handling criminal cases.

(b) The decision of the U.S. Attorney as to whether to institute criminal proceedings shall not bar the initiation of civil penalty proceedings by the Associate Administrator.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10963, Mar. 19, 1985, as amended at 51 FR 4341, Feb. 4, 1986]

§ 401.206 Procedure for payment of civil penalty for violation of the Seaway regulations.

(a) The payment must be by money order or certified check payable to the order of the Saint Lawrence Seaway Development Corporation and mailed

to the Comptroller. If the payment is made in person at the offices of the Saint Lawrence Seaway Development Corporation, the payment may be in cash or by postal money order or check payable to the order of the Saint Lawrence Seaway Development Corporation.

(b) The payment of any penalty will be acknowledged by written receipt.

(c) If the penalty paid is determined by the Associate Administrator to have been improperly or excessively imposed, the payor will be notified and requested to submit an application for a refund which should be mailed to the Saint Lawrence Seaway Development Corporation, attention of the Chief Engineer. Such application must be made by the payor within one year of the date of notification provided for in this section.

(d) In the event the alleged violator is about to leave the jurisdiction of the United States, he or she will be required, before being allowed to depart, to post a bond in the amount and manner suitable to the Associate Administrator, from which bond any subsequent assessed or mitigated penalty may be satisfied.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10964, Mar. 19, 1985, as amended at 51 FR 4341, Feb. 4, 1986]

PART 402—TARIFF OF TOLLS

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

SOURCE: 66 FR 15329, Mar. 16, 2001, unless otherwise noted.