

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

Sec.

402.1 Purpose.

402.2 Title.

402.3 Interpretation.

402.4 Tolls.

402.5 Description and weight of cargo.

402.6 Post-clearance date operational surcharges.

402.7 Coming into force.

402.8 Schedule of tolls.

402.9 Operational surcharges—no postponements.

402.10 Operational surcharges after postponements.

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.

## § 402.1

## 33 CFR Ch. IV (7-1-04 Edition)

### § 402.1 Purpose.

This regulation prescribes the charges to be assessed for the full or partial transit of the St. Lawrence Seaway between Montreal, Quebec, and Lake Erie.

### § 402.2 Title.

This tariff may be cited as the St. Lawrence Seaway Tariff of Tolls (Schedule of Tolls in Canada).

### § 402.3 Interpretation.

In this tariff,

(a) *Bulk cargo* means cargo consisting of goods, loose or in mass, that generally must be shoveled, pumped, blown, scooped or forked in the handling and includes:

- (1) Cement, loose or in sacks;
- (2) Coke and petroleum coke, loose or in sacks;
- (3) Domestic cargo;
- (4) Liquids carried in vessels' tanks;
- (5) Ores and minerals (crude, screened, sized or concentrated, but not otherwise processed) loose or in sacks, including alumina, bauxite, coal, gravel, phosphate rock, sand, stone and sulphur;
- (6) Pig iron and scrap metals;
- (7) Lumber, pulpwood, poles and logs, loose or bundled;
- (8) Raw sugar, flour, loose or in sacks;
- (9) Wood pulp, loose or in bales; and
- (10) Material for recycling, scrap material, refuse and waste.

(b) *Cargo* means all goods aboard a vessel whether carried as revenue or non-revenue freight or carried for the vessel owner, but does not include:

- (1) Empty containers and the tare weight of loaded containers;
- (2) Ships' fuel, ballast or stores;
- (3) The personal effects of crew or passengers; or
- (4) In transit cargo that is carried both upbound and downbound in the course of the same voyage.

(c) *Containerized cargo* means cargo shipped in a container that is enclosed, permanent, reusable, nondisposable, weather tight.

(d) *Corporation* means the Saint Lawrence Seaway Development Corporation.

(e) *Domestic cargo* means cargo the shipment of which originates at one

Canadian point and terminates at another Canadian point, or originates at one United States point and terminates at another United States point, but does not include import or export cargo designated at the point of origin for transshipment by water at a point in Canada or in the United States.

(f) *General cargo* means other than bulk cargo, grain, government aid cargo, steel slabs and coal.

(g) *Government aid cargo* means:

(1) Processed food products that are donated by, or the purchase of which has been financed on concessional terms by, the federal government of the United States or Canada for the purposes of nutrition, economic development, emergency, or disaster relief programs; and

(2) Food cargo that is:

(i) Owned or financed by a non-profit organization or cooperative;

(ii) Intended for use in humanitarian or development assistance overseas; and

(iii) Stamped or otherwise shown to have been declared as such to that is certified by the customs service of the United States or Canada.

(h) *Grain* means barley, corn, oats, flaxseed, rapeseed, soybeans, field crop seeds, buckwheat, dried beans, dried peas, rye, wheat, grain screenings or meal from those grains.

(i) *Manager* means the St. Lawrence Seaway Management Corporation.

(j) *Metric ton* means 1,000 kilograms (2204.62 pounds).

(k) *Passenger* means any person being transported through the Seaway who has paid a fare for passage.

(l) *Pleasure craft* means a vessel, however propelled, that is used exclusively for pleasure and does not carry passengers.

(m) *Seaway* includes all facilities and services authorized under Public Law 358, 83rd Congress, May 13, 1954, enacted by the Congress of the United States, as amended, (33 U.S.C. 981, *et seq.*) and the meaning ascribed to it under the Canada Marine Act.

(n) *Vessel* ("ship" in Canada) means every type of craft used as a means of transportation on water, except a vessel owned or employed by the or the Corporation.