

## § 401.88

has been detained, is deposited with the Corporation as security for the payment of any fine or civil penalty that may be imposed.

(d) Where a sum of money has been deposited pursuant to paragraph (c) of this section, the Corporation may:

- (1) Return the deposit;
- (2) Hold the deposit in trust as security for the payment of any fine that may be imposed; or
- (3) Retain the deposit if the depositor agrees to retention by the Corporation of the sum deposited.

(e) Although the depositor may have agreed to retention by the Authority of an amount deposited under paragraph (c) of this section, he may bring an action for the recovery of the amount deposited on the ground that there has been no violation of the regulations in this part.

[39 FR 10900, Mar. 22, 1974, as amended at 65 FR 52915, Aug. 31, 2000]

## § 401.88 Power of sale for toll arrears.

(a) Where a vessel has been detained pursuant to § 401.87(a) and payment of the tolls and charges or the fine imposed has not been made within a reasonable time after

- (1) The time of the detention, in the case of arrears of tolls and charges, or
- (2) The imposition of the fine or penalty, in the case of a violation, the Corporation may direct that the vessel or its cargo or any part thereof be seized and sold subject to and in accordance with an order of a court of competent jurisdiction.

(b) The Corporation may, after giving such notice as it deems reasonable to the representative of the vessel, sell the vessel or cargo seized pursuant to paragraph (a) of this section.

(c) An amount equal to the cost of the detention, seizure and sale, and

- (1) The tolls and charges payable, or
- (2) The fine or penalty imposed on conviction, shall be deducted from the proceeds of a sale pursuant to paragraph (b) of this section, and the balance shall be paid to the owner of the

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vessel or cargo or the mortgagee thereof, as the case may be.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471)

[39 FR 10900, Mar. 22, 1974, as amended at 41 FR 12227, Mar. 24, 1976; 47 FR 51124, Nov. 12, 1982; 65 FR 52915, Aug. 31, 2000]

### GENERAL

## § 401.89 Transit refused.

(a) An officer may refuse to allow a vessel to transit when,

(1) The vessel is not equipped in accordance with §§ 401.5 to 401.19 and subsections (e) to (j) of Schedule I of subpart A of this part when transiting the Canadian waters of the Seaway;

(2) The vessel, its cargo, equipment or machinery are in a condition that will prevent safe or expeditious transit by that vessel; or

(3) The vessel is manned with a crew that is incompetent or inadequate.

[39 FR 10900, Mar. 22, 1974, as amended at 61 FR 19552, May 2, 1996; 65 FR 52915, Aug. 31, 2000]

## § 401.90 Boarding for inspections.

(a) For the purpose of enforcing these Regulations in this part in both Canadian and U.S. waters, an officer may board any vessel and:

(1) Examine the vessel and its cargo; and

(2) Determine that the vessel is adequately manned.

(b) In addition to § 401.90(a)(1) and (2) in Canadian waters, a Manager's officer may also:

(1) Require any person appearing to be in charge of the vessel to produce for inspection, or for the purpose of making copies or extracts, any log book, document or paper; and

(2) In carrying out an inspection:

(i) Use or cause to be used any computer system or data processing system on the vessel to examine any data contained in, or available to, the system;

(ii) Reproduce any record, or cause it to be reproduced from the data, in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying; and

(iii) Use or cause to be used any copying equipment in the vessel to make

copies of any books, records, electronic data or other documents.

(c) In Canadian waters, the owner or person who is in possession or control of a vessel that is inspected, and every person who is found on the vessel, shall:

(1) Give the officer all reasonable assistance to enable the officer to carry out the inspection and exercise any power conferred by the Canada Marine Act; and

(2) Provide the officer with any information relevant to the administration of these practices and procedures that the officer may reasonably require.

[65 FR 52915, Aug. 31, 2000; 65 FR 56486, Sept. 19, 2000]

#### § 401.91 Removal of obstructions.

The Corporation or the Manager may, at the owner's expense, move any vessel, cargo, or thing that obstructs or hinders transit on any part of the Seaway.

[61 FR 19552, May 2, 1996, as amended at 65 FR 52915, Aug. 31, 2000]

#### § 401.92 Wintering and lying-up.

No vessel shall winter within the Seaway or lie-up within the Seaway during the navigation season except with the written permission of the Corporation or the Manager and subject to the conditions and charges that may be imposed.

[39 FR 10900, Mar. 22, 1974, as amended at 65 FR 52915, Aug. 31, 2000]

#### § 401.93 Access to Seaway property.

(a) Except as authorized by an officer, no person shall load or unload goods on property of the Corporation or the Manager.

(b) Except as authorized by an officer or by the Seaway Property Regulations or its successors, no person shall enter upon any land or structure of the Manager or the Corporation or in any Seaway canal or lock area.

[39 FR 10900, Mar. 22, 1974, as amended at 65 FR 52915, Aug. 31, 2000; 72 FR 2620, Jan. 22, 2007]

#### § 401.94 Keeping copies of regulations.

(a) A copy of these Regulations (subpart A of part 401), a copy of the vessel's latest Ship Inspection Report, and

Seaway Notices for the current navigation year shall be kept on board every vessel in transit.

(b) Onboard every vessel transiting the Seaway a duplicated set of the Ship's Fire Control Plans shall be permanently stored in a prominently marked weather-tight enclosure outside the deckhouse for the assistance of shore-side fire-fighting personnel.

[70 FR 12973, Mar. 17, 2005]

#### § 401.95 Compliance with regulations.

The master or owner of a vessel shall ensure that all requirements of these Regulations and Seaway Notices applicable to that vessel are complied with.

[70 FR 12973, Mar. 17, 2005]

### NAVIGATION CLOSING PROCEDURES

#### § 401.96 Definitions.

In § 410.97:

(a) *Clearance date* means the date designated in each year by the Corporation and the Manager as the date by which vessels must report at the applicable calling in point referred to in § 401.97(c) for final transit of the Montreal-Lake Ontario Section of the Seaway;

(b) *Closing date* means the date designated in each year by the Corporation and the Manager as the date on which the Seaway is closed to vessels at the end of the navigation season;

(c) *Closing period* means the period that commences on the date designated in each year by the Corporation and the Manager as the date on which the closing procedures in § 401.97 apply and that ends on the closing date;

(d) *Montreal-Lake Ontario Section of the Seaway* means the portion of the Seaway between the Port of Montreal and mid-Lake Ontario;

(e) *Wintering vessel* means a vessel that enters the Seaway upbound after a date designated each year by the Corporation and the Manager and transits above Port Colborne.

(68 Stat. 92-97, 33 U.S.C. 981-990, as amended and sec. 104, Pub. L. 95-474, sec. 2, 92 Stat. 1472; 68 Stat. 93-96, 33 U.S.C. 981-990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471)

[47 FR 51124, Nov. 12, 1982, as amended at 65 FR 52915, Aug. 31, 2000]