

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.

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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.

§ 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.

§ 402.4 Tolls.

(a) Every vessel entering, passing through or leaving the Seaway shall pay a toll that is the sum of each applicable charge in § 402.8. Each charge is calculated based upon the description set out in column 1 of § 402.8 and the rate set out in column 2 or 3.

(b) The toll is assessed against the vessel, its cargo and its passengers for a complete or partial transit of the Seaway and covers a single trip in one direction.

(c) The toll is due from the representative of the vessel within 45 days after the day on which the vessel enters the first lock of a transit of the Seaway.

§ 402.5 Description and weight of cargo.

For the purposes of calculating applicable tolls:

(a) A cord of pulpwood is taken to weigh 1,450 kilograms (3,196.70 pounds); and

(b) The cargo tonnage used rounded to the nearest 1,000 kilograms (2,204.62 pounds).

§ 402.6 Post-clearance date operational surcharges.

(a) Subject to paragraph (b) of this section, a vessel that reports for its final transit of the Seaway from a

place set out in column 1 of § 402.9 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of § 402.9 shall pay operational surcharges in the amount set out in column 3 of § 402.9, prorated on a per-lock basis.

(b) If surcharges are postponed for operational or climatic reasons, a vessel that reports for its final transit of the Seaway from a place set out in column 1 of § 402.10 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of § 402.10 shall pay operational surcharges in the amount set out in column 3 of § 402.10, prorated on a per-lock basis.

(c) A vessel that is authorized to transit the Seaway after the period of 96 hours after the clearance date established by the Manager and the Corporation shall pay, in addition to the operational surcharge, an amount equal to the incremental expenses incurred by the Manager to keep the Seaway open for the transit of the vessel.

§ 402.7 Coming into force.

In Canada, this Tariff and the tolls set forth herein come into force from the date on which this Tariff is filed with the Canadian Transportation Agency.

§ 402.8 Schedule of tolls.

| Item | Description of chargers Column 1 | Rate (\$) Montreal to or from Lake Ontario (5 locks) Column 2 | Rate (\$) Welland Canal—Lake Ontario to or from Lake Erie (8 locks) Column 3 |
|---------|---|---|--|
| 1. | Subject to item 3, for complete transit of the Seaway, a composite toll, comprising: (1) a charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement in the United States or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time. (2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows: (a) bulk cargo (b) general cargo (c) steel slab (d) containerized cargo (e) government aid cargo (f) grain (g) coal (3) a charge per passenger per lock | 0.0912 0.9461 2.2795 2.0630 0.9461 N/A 0.5812 0.5585 1.3449 | 0.1482. 0.6268. 1.0031. 0.7181. 0.6268. N/A. 0.6268. 0.6268. 1.3449. |

§ 402.9

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

| Item | Description of chargers Column 1 | Rate (\$) Montreal to or from Lake Ontario (5 locks) Column 2 | Rate (\$) Welland Canal—Lake Ontario to or from Lake Erie (8 locks) Column 3 |
|---------|---|---|---|
| | (4) a charge per lock for transit of the Welland Canal in either direction by cargo ships: (a) loaded | N/A | 500.61. |
| | (b) in ballast | N/A | 369.87. |
| 2. | Subject to item 3, for partial transit of the Seaway | 20 per cent lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4). | 13 per cent per lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4). |
| 3. | Minimum charge per ship per lock transited for full or partial transit of the Seaway. | 16.77 | 16.77. |
| 4. | A rebate applicable for the 2004 navigation season to the rates of item 1 to 3. | Rebate of 0% | Rebate of 0%. |
| 5. | A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes ¹ . | 20.00 | 20.00. |

¹ The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is \$20 U.S. or \$30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

[69 FR 18812, Apr. 9, 2004]

§ 402.9 Operational surcharges—no postponements.

| Item | Column 1 Place in Montreal-Lake Ontario section | Column 2 Period after clearance date | Column 3 Amount (\$) (5 locks) ¹ |
|-----------|---|---|--|
| (a) | Cape Vincent (downbound) or Cap Saint-Michel (upbound). | (a) 24 hours | 20,000 |
| | | (b) 24 hours or more but less than 48 hours | 40,000 |
| | | (c) 48 hours or more but less than 72 hours | 60,000 |
| | | (d) 72 hours or more but less than 96 hours | 80,000 |
| (b) | Port, dock or wharf within St. Lambert—Iroquois lock segment. | (a) 24 hours | n/a |
| | | (b) 24 hours or more but less than 48 hours | 20,000 |
| | | (c) 48 hours or more but less than 72 hours | 40,000 |
| | | (d) 72 hours or more but less than 96 hours | 60,000 |

¹Prorated on a per-lock basis.

§ 402.10 Operational surcharge after postponements.

| Item | Column 1 Place in Montreal-Lake Ontario | Column 2 Period after clearance date | Column 3 Amount (\$) (5 locks) ¹ |
|-----------|--|---|--|
| (a) | Cape Vincent (downbound) or Cape Saint-Michel (upbound): (1) If the postponement is for 24 hours | (a) 24 hours or more but less than 36 hours | 20,000 |
| | | (b) 36 hours or more but less than 48 hours | 40,000 |
| | | (c) 48 hours or more but less than 72 hours | 60,000 |
| | | (d) 72 hours or more but less than 96 hours | 80,000 |
| | (2) If the postponement is for 48 hours | (a) 48 hours or more but less than 56 hours | 20,000 |
| | | (b) 56 hours or more but less than 64 hours | 40,000 |
| | | (c) 64 hours or more but less than 72 hours | 60,000 |
| | | (d) 72 hours or more but less than 96 hours | 80,000 |
| | (3) If the postponement is for 72 hours | (a) 72 hours or more but less than 78 hours | 20,000 |
| | | (b) 78 hours or more but less than 84 hours | 40,000 |
| | | (c) 84 hours or more but less than 90 hours | 60,000 |
| | | (d) 90 hours or more but less than 96 hours | 80,000 |
| (b) | Port, dock or wharf within St. Lambert—Iroquois lock segment: (1) If the postponement is for 24 hours | (a) 24 hours or more but less than 48 hours | n/a |
| | | (b) 48 hours or more but less than 60 hours | 20,000 |
| | | (c) 60 hours or more but less than 72 hours | 40,000 |

Saint Lawrence Seaway Development Corp., DoT

§ 402.10

| Item | Description of chargers Column 1 | Rate (\$) Montreal to or from Lake Ontario (5 locks) Column 2 | Rate (\$) Welland Canal—Lake Ontario to or from Lake Erie (8 locks) Column 3 |
|---------|---|---|---|
| | (4) a charge per lock for transit of the Welland Canal in either direction by cargo ships: (a) loaded | N/A | 500.61. |
| | (b) in ballast | N/A | 369.87. |
| 2. | Subject to item 3, for partial transit of the Seaway | 20 per cent lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4). | 13 per cent per lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4). |
| 3. | Minimum charge per ship per lock transited for full or partial transit of the Seaway. | 16.77 | 16.77. |
| 4. | A rebate applicable for the 2004 navigation season to the rates of item 1 to 3. | Rebate of 0% | Rebate of 0%. |
| 5. | A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes ¹ . | 20.00 | 20.00. |

¹ The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is \$20 U.S. or \$30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

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| Item | Column 1 Place in Montreal-Lake Ontario section | Column 2 Period after clearance date | Column 3 Amount (\$) (5 locks) ¹ |
|-----------|---|---|--|
| (a) | Cape Vincent (downbound) or Cap Saint-Michel (upbound). | (a) 24 hours | 20,000 |
| | | (b) 24 hours or more but less than 48 hours | 40,000 |
| | | (c) 48 hours or more but less than 72 hours | 60,000 |
| | | (d) 72 hours or more but less than 96 hours | 80,000 |
| (b) | Port, dock or wharf within St. Lambert—Iroquois lock segment. | (a) 24 hours | n/a |
| | | (b) 24 hours or more but less than 48 hours | 20,000 |
| | | (c) 48 hours or more but less than 72 hours | 40,000 |
| | | (d) 72 hours or more but less than 96 hours | 60,000 |

¹Prorated on a per-lock basis.

§ 402.10 Operational surcharge after postponements.

| Item | Column 1 Place in Montreal-Lake Ontario | Column 2 Period after clearance date | Column 3 Amount (\$) (5 locks) ¹ | |
|-----------|---|---|--|--------|
| (a) | Cape Vincent (downbound) or Cape Saint-Michel (upbound): | (1) If the postponement is for 24 hours | (a) 24 hours or more but less than 36 hours | 20,000 |
| | | | (b) 36 hours or more but less than 48 hours | 40,000 |
| | | | (c) 48 hours or more but less than 72 hours | 60,000 |
| | | | (d) 72 hours or more but less than 96 hours | 80,000 |
| | | (2) If the postponement is for 48 hours | (a) 48 hours or more but less than 56 hours | 20,000 |
| | | | (b) 56 hours or more but less than 64 hours | 40,000 |
| | | | (c) 64 hours or more but less than 72 hours | 60,000 |
| | | | (d) 72 hours or more but less than 96 hours | 80,000 |
| | | (3) If the postponement is for 72 hours | (a) 72 hours or more but less than 78 hours | 20,000 |
| | | | (b) 78 hours or more but less than 84 hours | 40,000 |
| | | | (c) 84 hours or more but less than 90 hours | 60,000 |
| | | | (d) 90 hours or more but less than 96 hours | 80,000 |
| (b) | Port, dock or wharf within St. Lambert—Iroquois lock segment: | (1) If the postponement is for 24 hours | (a) 24 hours or more but less than 48 hours | n/a |
| | | | (b) 48 hours or more but less than 60 hours | 20,000 |
| | | | (c) 60 hours or more but less than 72 hours | 40,000 |