

## § 402.1

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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 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,

*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, 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.

*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:

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(1) Empty containers or 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.

*Carrier* means any company, or its representative, engaged in physically moving a cargo between an origin and a destination.

*Closing date* means in respect of a year, the first date in such year after the opening date on which both the Montreal-Lake Ontario portion and the Welland Canal portion of the Seaway are closed for vessel traffic.

*Commodity* means cargo that has been defined as a commodity in the Manager's then current publicly announced commodity codes.

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

*Corporation* means the Saint Lawrence Seaway Development Corporation.

*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.

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

*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.

*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.

*Great Lakes/St. Lawrence Seaway System* means all ports in the Great Lakes and the St. Lawrence River.

*Incremental volume* means the portion of tonnage shipped through the Seaway by a specific shipper/receiver in a given season, above the pre-approved maximum tonnage realized by that specific shipper/receiver over the previous five (5) navigation seasons.

*Manager* means the St. Lawrence Seaway Management Corporation.

*Maximum volume* means the highest total annual tonnage of a specific commodity that a shipper/receiver has shipped through the Seaway over the previous 5 years.

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

*Navigation season* means the period commencing on an opening date and ending on the next closing date.

*New business* means:

(1) Containerized cargo moved by ship in the Seaway at any time in a navigation season;

(2) A commodity/origin/destination combination in which the commodity moved by ship in the Seaway at any time in a navigation season:

(i) Originating at a point inside Canada or the United States of America or at a country outside Canada or the United States of America, provided that such commodity has not originated from such point or country, as the case may be, at any time in any of the five consecutive navigation seasons immediately preceding the then current navigation season;

(ii) Destined to a point inside Canada or the United States of America or a country outside Canada or the United States of America, provided that such commodity has not been destined to such point or country, as the case may be, at any time in any of the five consecutive navigation seasons immediately preceding the then current navigation season;

(iii) Originating at a point inside Canada or the United States of Amer-

ica or a country outside Canada or the United States of America and destined to a point inside Canada or the United States of America or a country outside Canada or the United States of America, provided that such Commodity was previously moved, in lieu of movement by ship, by any mode of transportation other than by ship at all times in the five consecutive navigation seasons immediately preceding the then current navigation season; or

(iv) That has not moved through either section of the Seaway in any of the five consecutive navigation seasons immediately preceding the then current navigation season, in a volume exceeding 10,000 metric tons.

*Opening date* means, in respect of any year, the earliest date in such year on which either the Montreal-Lake Ontario portion or the Welland Canal portion of the Seaway is opened for vessel traffic, provided however that if such date is prior to April 1 the opening date in such year shall be deemed to be the 1st day of April in such year.

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

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

*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.

*Section of the Seaway* means either the Montreal-Lake Ontario portion of the Seaway or the Welland Canal portion of the Seaway.

*Shipper/receiver* means any company who owns or buys the cargo that is being shipped through the Seaway.

*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 Manager or the Corporation.

*Volume rebate* means a percentage reduction, as part of an initiative program, offered on applicable cargo tolls for shipments of a specific commodity

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above and beyond a pre-approved historical maximum volume.

[66 FR 15329, Mar. 16, 2001, as amended at 71 FR 14807, Mar. 24, 2006; 72 FR 4431, Jan. 31, 2007; 74 FR 10678, Mar. 12, 2009]

#### **§ 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 § 402.10. Each charge is calculated based on the description set out in column 1 of § 402.10 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.

(d) The two (2) incentive programs, New Business and Volume Rebate, are exclusive and cannot be applied at the same time on the same cargo movement.

[66 FR 15329, Mar. 16, 2001, as amended at 71 FR 14807, Mar. 24, 2006; 74 FR 10679, Mar. 12, 2009]

#### **§ 402.5 New Business Incentive Program**

(a) To be eligible for the rebate applicable under the New Business Incentive Program, a carrier must submit an application to the Manager for the proposed commodity/origin/destination combination to be approved and accepted under the rules of the New Business Incentive Program promulgated and administered from time to time by the Manager.

(b) Containerized cargo, whatever the origin or destination, moved by ship in the Seaway at any time in the navigation seasons commencing in 2008, 2009, 2010, 2011 and 2012 qualifies as New Business.

(c) A commodity/origin/destination combination that qualifies as New Business after the 30th day of September in any navigation season continues to qualify as New Business in the two consecutive navigation seasons; and

(d) A commodity/origin/destination combination that qualifies as New

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Business after the 30th day of September in any navigation season continues to qualify as New Business in the three consecutive navigation seasons immediately following the then current navigation season.

[74 FR 10679, Mar. 12, 2009]

#### **§ 402.6 Volume Rebate Incentive program**

(a) To be eligible to the Volume Rebate Incentive program:

(1) A shipper/receiver in the Great Lakes/St. Lawrence Seaway System must submit to the Manager for approval, before June 30th of every season, the commodity, as defined under the Manager's commodity classification, for which a Volume Rebate is sought, the origin or destination of the commodity, and a proof of the maximum volume of the commodity the shipper/receiver has shipped over the last 5 years from that origin or to that destination.

(2) The shipper/receiver must already move the commodity, as defined under the Manager's commodity classification, through the Seaway at a minimum of 100,000 tonnes per season for the past five navigation seasons.

(b) Once approved by the Manager, the maximum volume will become the basis on which to calculate the incremental volume.

(c) The Volume Rebate Incentive program is not accessible at the end of the navigation season without a pre-approved maximum volume within the set deadline.

(d) The same cargo volume can only be used by one shipper/receiver.

(e) For the Volume Rebate to be applicable, the total volume of the commodity shipped through the Seaway must also increase during the navigation season.

[74 FR 10680, Mar. 12, 2009]

#### **§ 402.7 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