

the United States Attorney for appropriate action.

(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 4340, Feb. 4, 1986]

§ 401.204 Criminal penalties.

(a) Prosecution in the Federal courts for violations of Seaway Regulations enforced by the Corporation that provide, upon conviction, for punishment by fine or imprisonment is a matter finally determined 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.

§ 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:

- (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

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

[66 FR 15329, Mar. 16, 2001, as amended at 72 FR 4431, Jan. 31, 2007. Redesignated at 74 FR 10679, Mar. 12, 2009]

§ 402.8 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 §402.11 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of 402.11 shall pay operational surcharges in the amount set out in column 3 of 402.11, 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 within a period after the clearance date established by the Manager

and the Corporation set out in column 2 shall pay operational surcharges in the amount set out in column 3, 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.

[66 FR 15329, Mar. 16, 2001. Redesignated and amended at 74 FR 10680, Mar. 12, 2009]

§ 402.9 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.

[66 FR 15329, Mar. 16, 2001. Redesignated at 74 FR 10679, Mar. 12, 2009]

§ 402.10 Schedule of tolls.

Item/description of charges 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 or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time ¹ .	0.0966	0.1546.
(2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
(a) bulk cargo	1.0012	0.6834.
(b) general cargo	2.4124	1.0936.
(c) steel slab	2.1833	0.7829.
(d) containerized cargo	1.0012	0.6834.
(e) government aid cargo	n/a	n/a.
(f) grain	0.6151	0.6834.
(g) coal	0.6151	0.6834.
(3) a charge per passenger per lock	1.5000	1.5000.
(4) a lockage charge per Gross Registered Ton of the vessel, as defined in item 1(1), applicable whether the ship is wholly or partially laden, or is in ballast, for transit of the Welland Canal in either direction by cargo ships. Up to a maximum charge per vessel	n/a	3,600.00.
2. Subject to item 3, for partial transit of the Seaway	20 per cent per 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 vessel per lock transited for full or partial transit of the Seaway.	25.00	25.00.

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Item/description of charges 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 pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes ² .	25.00 ³	25.00.
6. Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period.	20%	20%.
7. Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume.	10%	10%.

¹ Or under the US GRT for ships prescribed prior to 2002.
² The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is \$30 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. 998a(a)).
³ Pleasure craft rates-subject to change in subsequent years.

[74 FR 10679, Mar. 12, 2009]

§ 402.11 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 (b) 24 hours or more but less than 48 hours (c) 48 hours or more but less than 72 hours (d) 72 hours or more but less than 96 hours	20,000 40,000 60,000 80,000
(b)	Port, dock or wharf within St. Lambert—Iroquois lock segment.	(a) 24 hours (b) 24 hours or more but less than 48 hours (c) 48 hours or more but less than 72 hours (d) 72 hours or more but less than 96 hours	n/a 20,000 40,000 60,000

¹ Prorated on a per-lock basis.

[66 FR 15329, Mar. 16, 2001. Redesignated at 74 FR 10679, Mar. 12, 2009]

§ 402.12 Operational surcharges—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 (2) If the postponement is for 48 hours (3) If the postponement is for 72 hours	(a) 24 hours or more but less than 36 hours (b) 36 hours or more but less than 48 hours (c) 48 hours or more but less than 72 hours (d) 72 hours or more but less than 96 hours (a) 48 hours or more but less than 56 hours (b) 56 hours or more but less than 64 hours (c) 64 hours or more but less than 72 hours (d) 72 hours or more but less than 96 hours (a) 72 hours or more but less than 78 hours (b) 78 hours or more but less than 84 hours (c) 84 hours or more but less than 90 hours (d) 90 hours or more but less than 96 hours	20,000 40,000 60,000 80,000 20,000 40,000 60,000 80,000 20,000 40,000 60,000 80,000
(b)	Port, dock or wharf within St. Lambert—Iroquois lock segment: (1) If the postponement is for 24 hours (2) If the postponement is for 48 hours (3) If the postponement is for 72 hours or more.	(a) 24 hours or more but less than 48 hours (b) 48 hours or more but less than 60 hours (c) 60 hours or more but less than 72 hours (d) 72 hours or more but less than 96 hours (a) 48 hours or more but less than 72 hours (b) 72 hours or more but less than 80 hours (c) 80 hours or more but less than 88 hours (d) 88 hours or more but less than 96 hours (a) 72 hours or more but less than 96 hours	n/a 20,000 40,000 60,000 n/a 20,000 40,000 60,000 n/a

¹ Prorated on a per-lock basis.

[66 FR 15329, Mar. 16, 2001. Redesignated and amended at 74 FR 10679, Mar. 12, 2009]

**PART 403—RULES OF PROCEDURE
OF THE JOINT TOLLS REVIEW
BOARD**

Sec.

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AUTHORITY: 68 Stat. 92–96, 33 U.S.C. 981–990; Agreement between the Governments of United States and of Canada dated March 9, 1959, 10 U.S.T. 323, unless otherwise noted.

SOURCE: 24 FR 9307, Nov. 18, 1959; 24 FR 10445, Dec. 23, 1959, unless otherwise noted.

§ 403.1 Purpose of the Joint Tolls Review Board. [Rule 1]

The Board shall hear complaints relating to the interpretation of the St. Lawrence Seaway Tariff of Tolls or allegations of unjust discrimination arising out of the operation of the said Tariff and shall conduct such other business as agreed to by the Board (Rule 1).

[47 FR 13805, Apr. 1, 1982]

§ 403.2 Scope of rules. [Rule 2]

These rules govern practice and procedure before the Joint Tolls Review Board unless the Board directs or permits a departure therefrom in any proceeding [Rule 2].

(68 Stat. 92–97, 33 U.S.C. 981–990, as amended; Agreement between the Governments of the United States and Canada finalized on March 20, 1978)

[43 FR 30539, July 17, 1978. Redesignated at 47 FR 13805, Apr. 1, 1982]

§ 403.3 Definitions. [Rule 3]

In these rules, unless the context otherwise requires:

- (a) *Application* includes complaint;
 (b) *Affidavit* includes a written affirmation;
 (c) *Board* means the Joint Tolls Review Board;
 (d) Words in the singular include the plural and words in the plural include the singular [Rule 3].

[24 FR 9307, Nov. 18, 1959; 24 FR 10445, Dec. 23, 1959, as amended at 43 FR 30539, July 17, 1978. Redesignated at 47 FR 13805, Apr. 1, 1982]

§ 403.4 Applications. [Rule 4]

(a) Every proceeding before the Board shall be commenced by an application made to it, which shall be in writing and signed by, or on behalf of, the applicant.

(b) An applicant shall file six copies of his application setting forth a clear and complete statement of the facts the grounds for the complaint, and the relief or remedy to which the applicant claims to be entitled.

(c) Applicants resident in Canada shall file their complaints with the St. Lawrence Seaway Joint Tolls Reviews Board, Tower “A”, Place de Ville, 320 Queen Street, Ottawa, Ontario K1R 5A3. Applicants resident in the United States of America shall file their complaints with the St. Lawrence Seaway Joint Tolls Review Board, 800 Independence Ave., SW., Washington, D.C. 20591. Other applicants may file their complaints with the Board at either address.

(d) One copy of each application received shall be held and be available for public inspection at the offices of the Board in Ottawa, Ontario, and Massena, N.Y.

(e) The Board shall publish notice of the receipt of applications in the “Canada Gazette” and the FEDERAL REGISTER.

(f) Interested parties shall have thirty days from date of publication of notice in which to make representations