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station operator unless he shall file with the port director a written notice of appeal. The container station operator may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate and shall set forth the response of the container station operator to the statement of the port director. The container station operator, in his notice of appeal, may request a hearing.

(c) *Hearing on appeal.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The container station operator shall be notified of the time and place of the hearing at least 5 days prior thereto. The container station operator may be represented by counsel at the revocation or suspension hearing. All testimony in the proceeding shall be subject to cross-examination. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the container station operator. At the conclusion of such proceeding or review of a written appeal, the hearing officer or the port director, as the case may be, shall forthwith transmit all papers and the stenographic record of any hearing, to the Commissioner of Customs, together with his recommendation for final action. Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the container station operator may submit to the Commissioner of Customs, in writing, additional views and arguments on the basis of such record. If neither the container station operator nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs. The Commissioner shall thereafter render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the port director. Such decision shall be transmitted to the port direc-

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tor and served by him on the container station operator.

[T.D. 73-286, 38 FR 28289, Oct. 12, 1973, as amended by T.D. 88-63, 53 FR 40219, Oct. 14, 1988]

§ 19.49 Entry of containerized merchandise.

Merchandise not entered within the lay order period, or extension thereof, shall be placed in general order. The importing carrier shall issue carrier's certificates for individual shipments in a container. Entries covering merchandise transferred to a container station shall clearly show that the merchandise is at the container station.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

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24.70 Claims; deceased or incompetent public creditors.

24.71 Claims for personal injury or damages to or loss of privately owned property.

24.72 Claims; set-off.

24.73 Miscellaneous claims.

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

Section 24.1 also issued under 19 U.S.C. 197, 198, 1648;

Section 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007, 5054, 5061, 7805;

Section 24.11 also issued under 19 U.S.C. 1485(d);

Section 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 31302;

Section 24.14 also issued under 19 U.S.C. 1;

Section 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623; 46 U.S.C. 2111, 2112;

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112;

Section 24.23 also issued under 19 U.S.C. 3332;

Section 24.32 also issued under 5 U.S.C. 5582, 5583;

Section 24.36 also issued under 26 U.S.C. 6423.

SOURCE: 28 FR 14808, Dec. 31, 1963, unless otherwise noted.

§ 24.1 Collection of Customs duties, taxes, fees, interest, and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, fees, interest, and other charges (see § 111.29(b) and 141.1(b) of this chapter):

(1) Any form of United States currency or coin legally current at time of acceptance shall be accepted.

(2) Any bank draft, cashier's check, or certified check drawn on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such draft or checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository shall be accepted.

(3)(i) An uncertified check drawn by an interested party on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such checks are acceptable for de-

posit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository shall be accepted if there is on file with the port director a bond to secure the payment of the duties, taxes, fees, interest, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the port director to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, the port director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check. For purposes of this paragraph, a customs broker who does not have a permit for the district (see the definition of "district" at § 111.1 of this chapter) where the entry is filed, is an interested party for the purpose of Customs acceptance of such broker's own check, provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

(ii) If, during the preceding 12-month period, an importer or interested party has paid duties or any other obligation by check and more than one check is returned dishonored by the debtor's financial institution, the port director shall require a certified check, money order or cash from the importer or interested party for each subsequent payment until such time that the port director is satisfied that the debtor has the ability to consistently present uncertified checks that will be honored by the debtor's financial institution.

(4) A U.S. Government check endorsed by the payee to the U.S. Customs Service, a domestic traveler's check, or a U.S. postal, bank, express, or telegraph money order shall be accepted. Before accepting this form of payment the Customs cashier or other employee authorized to receive Customs collections shall require such identification in the way of a current

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driver's license issued by a state of the United States, or a current passport properly authenticated by the Department of State, or a current credit card issued by one of the numerous travel agencies or clubs, or other credit data, etc., from which he can verify the identity and signature of the person tendering such check or money order.

(5) The face amount of a bank draft, cashier's check, certified check, or uncertified check tendered in accordance with this paragraph shall not exceed the amount due by more than \$1 and any required change is authorized to be made out of any available cash funds on hand.

(6) The face amount of a U.S. Government check, traveler's check, or money order tendered in accordance with this paragraph shall not exceed the amount due by more than \$50 and any required change is authorized to be made out of any available cash funds on hand.

(7) Credit or charge cards, which have been authorized by the Commissioner of Customs, may be used for the payment of duties, taxes, fees, and/or other charges at designated Customs-serviced locations. Payment by this manner is limited to non-commercial entries and is subject to ultimate collection from the credit card company. Persons paying by charge or credit card will remain liable for all such charges until paid. Information as to those credit card companies authorized by Customs may be obtained from Customs officers.

(8) Participants in the Automated Broker Interface may use statement processing as described in § 24.25 of this part. Statement processing allows entry/entry summaries and entry summaries to be grouped by either importer or by filer, and allows payment of related duties, taxes and fees by a single payment, rather than by individual checks for each entry. The preferred method of payment for users of statement processing is by Automated Clearinghouse.

(b) At piers, terminals, bridges, airports and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States shall be accepted by Customs

inspectors and other Customs employees authorized to receive Customs collections in payment of duties, taxes, fees, interest, and other charges on noncommercial importations, subject to the identification requirements of paragraph (a)(4) of this section and this paragraph. Where the amount of the check is over \$25, the Customs cashier or other employee authorized to receive Customs collections will ensure that the payor's name, home and business telephone number (including area code), and date of birth are recorded on the face (front) side of the monetary instrument. In addition, one of the following will be recorded on the face side of the instrument: preferably, the payor's social security number or, alternatively, a current passport number or current driver's license number (including issuing state). A personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such Customs inspectors and other Customs employees shall also be subject to the following conditions:

(1) Where the amount is less than \$100 and the identification requirements of paragraph (a)(4) of this section have been met, the Customs employee accepting the check or money order will place his name and badge number on the collection voucher and place the serial number or other form of voucher identification on the face side of the check or money order so that the check or money order can be easily associated with the voucher.

(2) Where the amount is \$100 or more, in addition to the requirements of paragraph (b)(1) of this section the Customs employee accepting the check or money order shall obtain the approval of the Customs officer in charge who also shall personally verify the identification data and indicate his approval by initialing the collection voucher below the signature of the Customs employee who approved the receipt of the check or money order.

(3) A personal check tendered in accordance with this paragraph shall be accepted only when drawn for the amount of the duties, taxes, fees, and other charges to be paid by such check.

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted.

(d) Checks and other negotiable papers covering duties, taxes, fees, interest, and other Customs charges shall be made payable to the United States Customs Service.

(e) Any person who pays by check any duties, taxes, fees, interest, or other charges or obligations due the Customs Service which are not guaranteed by a Customs bond shall be assessed a charge of \$30.00 for each check which is returned unpaid by a financial institution for any reason, except the charge will not be assessed if it is shown that the maker of the check was not at fault in connection with the return of the check. This charge shall be in addition to any unpaid duties, taxes, fees, interest, and other charges.

[28 FR 14808, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §24.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 24.2 Persons authorized to receive Customs collections.

Port directors, Customs cashiers, Customs inspectors, Customs dock tellers, and such other officers and employees as the port director shall designate shall receive Customs collections.

§ 24.3 Bills and accounts; receipts.

(a) Any bill or account for money due the United States shall be rendered by an authorized Customs officer or employee on an official form.

(b) A receipt for the payment of estimated Customs duties, taxes, fees, and interest, if applicable, shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment.

(c) A copy of a Customs bill validated as paid will not normally be provided a payer. If a bill is paid by check, the copy of the Customs bill identified as "Payer's Copy" and the payer's cancelled check shall constitute evidence of such payment to Customs. Should a payer desire evidence of receipt, both the "U.S. Customs Service Copy" and the "Payer's Copy" of the bill and, in the case of payments by mail, a stamped, self-addressed envelope, shall be submitted. The "Payer's Copy" of the bill shall then be marked paid by the appropriate Customs official and returned to the payer.

(d) Every payment which is not made in person shall be accompanied by the original bill or by a communication containing sufficient information to identify the account or accounts to which it is to be applied.

(e) Except for bills resulting from dishonored checks or dishonored Automated Clearinghouse (ACH) transactions, all other bills for duties, taxes, fees, interest, or other charges are due and payable within 30 days of the date of issuance of the bill. Bills resulting from dishonored checks or dishonored ACH transactions are due within 15 days of the date of issuance of the bill.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 74-73, 39 FR 7782, Feb. 28, 1974; T.D. 79-221, 44 FR 46813, Aug. 9, 1979; T.D. 86-178, 51 FR 34959, Oct. 1, 1986; T.D. 99-75, 64 FR 56437, Oct. 20, 1999]

§ 24.3a Customs bills; interest assessment; delinquency; notice to principal and surety.

(a) *Due date of Customs bills.* Customs bills for supplemental duties, taxes and fees (increased or additional duties, taxes, and fees assessed upon liquidation or reliquidation) together with interest thereon, reimbursable services (such as provided for in §§24.16 and 24.17), and miscellaneous amounts (bills other than duties, taxes, reimbursable services, liquidated damages, fines, and penalties) shall be due as provided for in §24.3(e).

(b) *Assessment of interest charges—(1) Bills for reimbursable services and miscellaneous amounts.* If payment is not received by Customs on or before the late payment date appearing on the bill, interest charges will be assessed

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upon the delinquent principal amount of the bill. The late payment date is the date 30 calendar days after the interest computation date. The interest computation date is the date from which interest is calculated and is initially the bill date.

(2) *Interest on supplemental duties, taxes, fees, and interest*—(i) *Initial interest accrual.* Except as otherwise provided in paragraphs (b)(2)(i)(A) through

(b)(2)(i)(C) of this section, interest assessed due to an underpayment of duties, taxes, fees, or interest shall accrue from the date the importer of record is required to deposit estimated duties, taxes, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. An example follows:

Example: Entry underpaid as determined upon liquidation

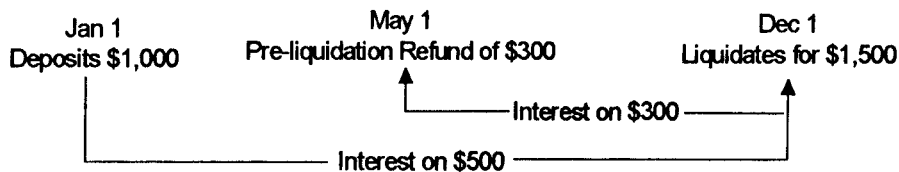


Importer owes \$500 plus interest as follows: The importer makes a \$1,000 initial deposit on the required date (January 1) and the entry liquidates for \$1,500 (December 1). Upon liquidation, the importer will be billed for \$500 plus interest. The interest will accrue from the date payment was due (January 1) to date of liquidation (December 1).

excessive, in addition to any other interest accrued under this paragraph (b)(2)(i), interest also shall accrue on the excess amount refunded from the date of the refund to the date of liquidation or reliquidation of the applicable entry or reconciliation. An example follows:

Example: Pre-liquidation refund but entry liquidates for an increase

(A) If a refund of duties, taxes, fees, or interest was made prior to liquidation or reliquidation and is determined upon liquidation or reliquidation to be



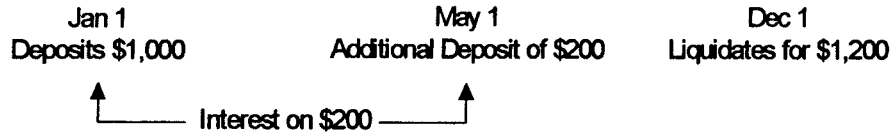
Importer owes \$800 plus interest as follows: The importer makes a \$1,000 initial deposit on the required date (January 1) and receives a pre-liquidation refund of \$300 (May 1) and the entry liquidates for \$1,500 (December 1). Upon liquidation, the importer will be billed for \$800 plus interest. The interest accrues in two segments: (1) On the original underpayment (\$500) from the date of deposit (January 1) to the date of liquidation (December 1); and (2) on the pre-liquidation refund (\$300) from the date of the refund (May 1) to the date of liquidation (December 1).

ties, taxes, fees, or interest made prior to liquidation or reliquidation:

(J) If the additional deposit is determined upon liquidation or reliquidation of the applicable entry or reconciliation to constitute the correct remaining balance that was required to be deposited on the date the deposit was due, interest shall accrue on the amount of the additional deposit only from the date of the initial deposit until the date the additional deposit was made. An example follows:

(B) The following rules shall apply in the case of an additional deposit of du-

Example: Additional deposit made and entry liquidates for total amount deposited

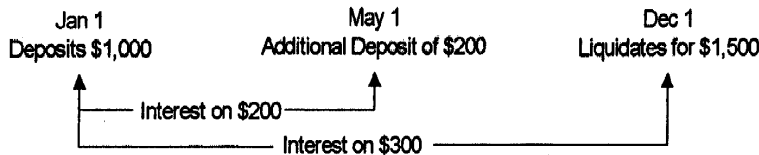


Importer owes interest on \$200 as follows: The importer makes a \$1,000 initial deposit on the required date (January 1) and an additional pre-liquidation deposit of \$200 (May 1) and the entry liquidates for \$1,200 (December 1). Upon liquidation, the importer will be billed for interest on the original \$200 underpayment from the date of the initial deposit (January 1) to the date of the additional deposit (May 1).

ance owed on the amount initially required to be deposited, in addition to any other interest accrued under this paragraph (b)(2)(i), interest also shall accrue on the remaining unpaid balance from the date deposit was initially required to the date of liquidation or reliquidation. An example follows:

(2) If the additional deposit is determined upon liquidation or reliquidation of the applicable entry or reconciliation to be less than the full bal-

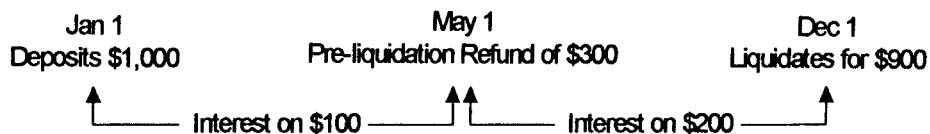
Example: Additional deposit made and entry underpaid as determined upon liquidation



Importer owes \$300 plus interest as follows: The importer makes a \$1,000 initial deposit on the required date (January 1) and an additional pre-liquidation deposit of \$200 (May 1) and the entry liquidates for \$1,500 (December 1). Upon liquidation, the importer will be billed for \$300 plus interest. The interest accrues in two segments: (1) on the additional deposit (\$200), from the date deposit was required (January 1) to the date of the additional deposit (May 1); and (2) on the remaining underpayment (\$300), from the date deposit was required (January 1), to the date of liquidation (December 1).

(3) If an entry or reconciliation is determined upon liquidation or reliquidation to involve both an excess deposit and an excess refund made prior to liquidation or reliquidation, interest in each case shall be computed separately and the resulting amounts shall be netted for purposes of determining the final amount of interest to be reflected in the underpaid amount. An example follows:

Example: Excess pre-liquidation deposit and excess pre-liquidation refund



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Importer owes \$200 plus or minus net interest as follows:

The importer makes a \$1,000 initial deposit on the required date (January 1) and receives a pre-liquidation refund of \$300 (May 1) and the entry liquidates for \$900 (December 1). Upon liquidation, the importer will be billed for \$200 plus or minus net interest. The interest accrues in two segments: (1) Interest accrues in favor of the importer on the initial overpayment (\$100) from the date of deposit (January 1) to the date of the refund (May 1); and (2) interest accrues in favor of the Government on the refund overpayment (\$200) from the date of the refund (May 1) to the date of liquidation (December 1).

(4) If the additional deposit or any portion thereof is determined upon liquidation or reliquidation of the applicable entry or reconciliation to constitute a payment in excess of the amount initially required to be deposited, the excess deposit shall be treated as a refundable amount on which interest also may be payable (see § 24.36).

(C) If a depository bank notifies Customs by a debit voucher that a Customs account is being debited due to a dishonored check or dishonored Automated Clearinghouse (ACH) transaction, interest shall accrue on the debited amount from the date of the debit voucher to either the date of payment of the debt represented by the debit voucher or the date of issuance of a bill for payment, whichever date is earlier.

(ii) *Interest on overdue bills.* If duties, taxes, fees, and interest are not paid in full within the applicable period specified in § 24.3(e), any unpaid balance shall be considered delinquent and shall bear interest until the full balance is paid.

(c) *Interest rate and applicability.* (1) The percentage rate of interest to be charged on such bills will be based upon the semiannual rate(s) established under sections 6621 and 6622 of the Internal Revenue Code of 1954 (26 U.S.C. 6621, 6622). The current rate of interest will appear on the Customs bill and may be obtained from the IRS or the Customs Accounting Services, Indianapolis, Indiana. Customs will also publish the current interest rate in the Customs Bulletin and FEDERAL REGISTER on a semiannual basis.

(2) The percentage rate of interest applied to an overdue bill will be ad-

justed as necessary to reflect any change in the annual rate of interest.

(3) Interest on overdue bills will be assessed on the delinquent principal amount by 30-day periods. No interest charge will be assessed for the 30-day period in which the payment is actually received at the "Send Payment To" location designated on the bill.

(4) In the case of any late payment, the payment received will first be applied to the interest charge on the delinquent principal amount and then to payment of the delinquent principal amount.

(5) The date to be used in crediting the payment is the date on which the payment is received by Customs.

(d) *Notice*—(1) *Principal.* The principal shall be notified at the time of the initial billing, and every 30 days after the due date until the bill is paid or otherwise closed. The following elements will normally appear on the bill:

- (i) Principal amount due;
- (ii) Interest computation date;
- (iii) Late payment date;
- (iv) Accrual of interest charges if payment is not received by the late payment date;
- (v) Applicable current interest rate;
- (vi) Amount of interest owed;
- (vii) Customs office where requests for administrative adjustments due to billing errors may be addressed; and
- (viii) Transaction identification (e.g., entry number, reimbursable assignment number).

(2) *Surety.* (i) Customs will report outstanding bills on a Formal Demand on Surety for Payment of Delinquent Amounts Due, for bills more than 30 days past due (approximately 60 days after bill due date), and every month thereafter until the bill is paid or otherwise closed. The following elements will normally appear on the report:

- (A) Principal amount due;
- (B) Interest computation date;
- (C) Late payment date;
- (D) Accrual of interest charges if payment is not received by the late payment date;
- (E) Applicable current interest rate;
- (F) Amount of interest owed;
- (G) Principal's name and address;
- (H) Customs office where requests for administrative adjustments due to billing errors may be addressed; and

(I) Transaction identification (e.g., entry number, reimbursable assignment number).

(ii) Upon the written request of a surety, Customs will provide the surety a notice containing the billing information at the time of the initial billing to its principal.

[T.D. 86-178, 51 FR 34958, Oct. 1, 1986, as amended by T.D. 99-75, 64 FR 56437, Oct. 20, 1999]

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

(a) *Application to defer.* An importer, including a transferee of alcoholic beverages in a Customs bonded warehouse who wishes to pay on a semi-monthly basis the estimated import taxes on alcoholic beverages entered, or withdrawn from warehouse, for consumption by him during such a period may apply by letter to the director of each port at which he wishes to defer payment. If the importer desires the additional privilege of depositing estimated tax payments on an extended deferred basis, it must be specifically requested. An importer who receives approval from a port director to defer such payments may, however, continue to pay the estimated import taxes due at the time of entry, or withdrawal from warehouse, for consumption.

(b) *Deferred payment periods.* A period shall commence on October 24 and run through October 31, 1965; thereafter the periods shall run from the 1st day of each month through the 15th day of that month, and from the 16th day of each month through the last day of that month. An importer may begin the deferral of payments of estimated tax to a Customs port in the first deferral period beginning after the date of the written approval by the port director. An importer may use the deferred payment system until the port director advises such importer that he is no longer eligible to defer the payment of such taxes.

(c) *Content of application and supporting documents.* (1) An importer must state his estimate of the largest amount of taxes to be deferred in any semimonthly period based on the large-

est amount of import taxes on alcoholic beverages deposited at that port in such a period during the year preceding his application. He must also identify any existing bond or bonds that he has on file at the port and shall submit in support of his application the approval of the surety on his bond or bonds to the use of the procedure and to the increase of such bond or bonds to such larger amount or amounts as may be found necessary by the port director.

(2) Each application must include a declaration in substantially the following language:

I declare that I am not presently barred by any port director from using the deferred payment procedure for payment of estimated taxes upon imports of alcoholic beverages, and that if I am notified by a port director to such effect I shall advise the director of any other port where approval has been given to me to use such procedure.

(d) *Use of deferred payment method.*

(1) The port director will notify the importer, or his authorized agent if requested, of approval.

(2) An importer who has received approval to make deferred payments retains the option of deferring or depositing the estimated tax on imported alcoholic beverages until the entry or withdrawal is presented to the cashier for payment of estimated duties. At the time the importer presents his entry or withdrawal for consumption to the cashier together with the estimated duty, he must either pay the estimated tax or indicate on the entry or withdrawal that he elects to defer the tax payment.

(e) *Tax deferment procedure.* If the importer elects to defer the tax payments, he shall enter on each copy of the entry or withdrawal the words "Tax Payment Deferred," adjacent to the amount shown on the documents as estimated taxes, before presentation to the cashier.

(f) *Payment procedure—(1) Billing.* Each importer who has deferred tax payments on imported alcoholic beverages will be billed on Customs Form 6084, United States Customs Service Bill, at the end of each tax deferred period for all taxes deferred during the period. Each bill will identify each tax amount deferred and the related entry

numbers. These bills must be paid in fully by the last day of the next succeeding deferral period.

(2) *Interest on overdue accounts.* When any bill for deferred taxes is not paid within the period specified in subparagraph (f)(1) of this section, interest thereon from the date following the end of the specified period to the date of payment of the bill shall be assessed, collected, and paid in the same manner as the basic tax. The rate of interest to be assessed shall be 7 percent per annum or such other rate as is established by the Secretary of the Treasury or his delegate in accordance with 26 U.S.C. 6621(b).

(g) *Restrictions on deferring tax deposits.* An importer may not on one entry, or withdrawal from warehouse for consumption, deposit part of the estimated tax and defer the balance of the tax. The estimated tax on each entry or withdrawal must be either fully paid or deferred.

(h) *Termination of deferred payment privilege.* (1) When any bill on Customs Form 6084 for deferred taxes is not paid within the period specified in paragraph (f) of this section, a demand for payment shall be made to the surety on the importer's bond. If in the opinion of the customs officer concerned such failure to make timely payment of estimated deferred taxes warrants the withdrawal of the tax deferral privilege, he will advise the importer of the withdrawal of such privilege. In all instances of failure to pay timely the deferred taxes on alcoholic beverages withdrawn from warehouse for consumption, further withdrawals from the warehouse entry on which the tax is delinquent will be refused until payment is made of the amount delinquent.

(2) The termination at any port of the tax deferral privilege for failure to pay timely any deferred estimated tax shall be at the discretion of the Customs officer concerned. Termination of the privilege for any other reason shall be subject to the approval of the Commissioner of Customs. Notice of termination of the tax deferral privilege at any port will be disseminated to all other Customs ports.

(3) Renewal of the tax deferral privilege after it has been withdrawn at any

port may be made only upon approval of the Commissioner of Customs.

(i) *Duration of deferred payment privilege.* The deferred payment privilege once approved by the port director will remain in effect until terminated under the provisions of paragraph (h) or the importer or surety requests termination.

(j) *Entries for consumption or warehouse after an importer is delinquent.* An importer who is delinquent in paying deferred taxes may make entries for consumption or for warehousing, or withdrawals for consumption from warehouse entries on which no delinquency exists, upon deposit of all estimated duties or taxes.

(k) *Rate of tax.* The estimated taxes must be paid on the basis of the rates in effect upon entry, or withdrawal from warehouse, for consumption, unless in accordance with section 315 of the Tariff Act of 1930, as amended, another date is applicable and not on the basis of the rates of tax in effect on the date deferred payment is made.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 56510, 30 FR 13359, Oct. 21, 1965; T.D. 67-31, 32 FR 493, Jan. 18, 1967; T.D. 75-278, 40 FR 51420, Nov. 5, 1975; T.D. 76-258, 41 FR 38767, Sept. 13, 1976; T.D. 84-213, 49 FR 41170, Oct. 19, 1984; T.D. 95-77, 60 FR 50011, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§ 24.5 Filing identification number.

(a) *Generally.* Each person, business firm, Government agency, or other organization shall file Customs Form 5106, Notification of Importer's Number or Application for Importer's Number, or Notice of Change of Name or Address, with the first formal entry which is submitted or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. A Customs Form 5106 shall also be filed for the ultimate consignee for which such entry is being made. Customs Form 5106 may be obtained from any Customs Office.

(b) *Preparation of Customs Form 5106.* (1) The identification number to be used when filing Customs Form 5106 shall be:

- (i) The Internal Revenue Service employer identification number, or
- (ii) If no Internal Revenue Service employer identification number has

been assigned, the Social Security number.

(2) If neither an Internal Revenue Service employer identification number nor a Social Security number has been assigned, the word "None" shall be written on the line provided for each of these numbers on Customs Form 5106 and the form shall be filed in duplicate.

(c) *Assignment of importer identification number.* Upon receipt of a Customs Form 5106 without an Internal Revenue Service employer identification number or a Social Security number, an importer identification number shall be assigned and entered on the Customs Form 5106 by the Customs office where the entry or request for services is received. The duplicate copy of the form shall be returned to the filing party. This identification number shall be used in all future Customs transactions when an importer number is required. If an Internal Revenue Service employer identification number, a Social Security number, or both, are obtained after an importer number has been assigned by Customs, a new Customs Form 5106 shall not be filed unless requested by Customs.

(d) *Optional additional identification.* Customs Form 5106 contains blocks for a two-digit suffix code which may be written in as an addition to the Internal Revenue Service employer identification number to provide optional additional identification. The two-digit suffix code may be used by a business firm having branch office operations to permit the firm to identify transactions originating in its branch offices, or by vessel owners to permit them to identify transactions associated with particular vessels. A separate Customs Form 5106 shall be required to report the specific suffix code and the name and address for each branch office or vessel to be identified. Transactions may be associated with a specific branch office or vessel by reporting the appropriate identification number, including the two-digit suffix code, on Customs Form 7501 or the request for services. Suffix codes may be either numeric, alphabetic, or a combination of both numeric and alphabetic, except that the letters O, Z, and I may not be used. The blocks may be left blank if

the firm or vessel owner has no use for them and a "00" suffix will be automatically assigned.

(e) *Retention of importer identification number.* An importer identification number shall remain on file until 1 year from the date on which it is last used on Customs Form 7501 or a request for services. If not used for 1 year and there is no outstanding transaction to which it must be associated, the importer identification number will be removed from Customs files. To engage in future transactions described in paragraph (a) of this section, the person, business firm, Government agency, or other organization, previously covered by an importer identification number, must file another Customs Form 5106.

(f) *"Freezing" importer identification information.* Those importers identifying Customs transactions through the procedure specified in paragraph (d) of this section and desiring to ensure that they receive such Customs transaction notifications as may be issued may request Customs to "freeze" the name and address information, regardless of what is shown on the Customs Form 5106 or request for services, by designating the name and title/position of the individual in their company authorized to effect name/address changes to the Importer's Record Number (IRN) identification information, and specifying the IRNs and suffixes to be frozen and the mailing address and/or physical location address of the company where Customs notifications are to be directed. The request must be made in a separate writing on letterhead paper signed by the importer of record or his agent, whose name and title are clearly indicated. Participation in the "Freeze" Program is voluntary. Requests to participate should be sent to: U.S. Customs Service, Accounting Services—Accounts Receivable, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, Attn: Freeze Program.

[T.D. 78-7, 42 FR 64681, Dec. 28, 1977, as amended by T.D. 84-129, 49 FR 23166, June 5, 1984; T.D. 93-43, 58 FR 34367, June 25, 1993]

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§ 24.11 Notice to importer or owner of increased or additional duties, taxes, fees and interest.

Any increased or additional duties, taxes, fees or interest found due upon liquidation or reliquidation shall be billed to the importer of record, or to the actual owner if the following have been filed with Customs:

- (a) A declaration of the actual owner in accordance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), and § 141.20 of this chapter; and
- (b) A bond on Customs Form 301 in accordance with § 141.20 of this chapter.

[T.D. 99-75, 64 FR 56439, Oct. 20, 1999]

§ 24.12 Customs fees; charges for storage.

(a) The following schedule of fees prescribed by law or hereafter in this paragraph shall be made available to the public at all Customs offices. When payment of such fee is received by a Customs employee a receipt therefor shall be issued.

(1) [Reserved]

(2) No fee will be charged for furnishing an official certificate if the request is made to Customs at the time the entry summary is filed. However, Customs shall charge and collect a fee of \$10.00 for each hour or fraction thereof for time spent by each clerical, professional or supervisor in finding the documents and furnishing an official certification if the request is made after the entry documents are filed, plus a charge of 15 cents per page for photocopying. The fee may be revised periodically by publication of a general notice in the FEDERAL REGISTER and *Customs Bulletin* setting forth the revised fee. The published revised fee shall remain in effect until changed.

(3) A Customs fee shall be collected for furnishing the names and addresses of importers of merchandise appearing to infringe a registered patent. This information will be furnished for a 2-month period at the fee of \$1,000; a 4-month period at the fee of \$1,500; or a 6-month period at the fee of \$2,000. (See § 12.39a of this chapter.)

(b) [Reserved]

(c) The rates charged for storage in Government-owned or rented buildings shall not be less than the charges made at the port by commercial concerns for

the storage and handling of merchandise. Except as to an examination package covered by an application for an entry by appraisement, storage shall be charged on any examination package for any period it remains in the appraiser's store after 2 full working days following the day on which the permit to release or transfer was issued. As to an examination package covered by an application for an entry by appraisement, storage shall be charged for any period it remains in the appraiser's store after 2 full working days following the day of issuance to the importer of oral or written notice of the amount of duties or taxes required to be deposited or that the package is ready for delivery. If the port director finds that circumstances make it impractical to remove examination packages from the appraiser's store within the 2-day period, he may extend the period for not to exceed 3 additional working days, without storage charges. In computing the 2 working days, and any authorized extension, (1) the day on which the permit to release or transfer is issued, or the day on which the notice is issued of the amount of duties or taxes that shall be deposited or that the package is ready for delivery, whichever is applicable, (2) Saturdays, (3) Sundays, and (4) National holidays, shall be excluded.

(d) Pursuant to the progressive clearance procedures set forth in § 122.88 of this chapter, when airlines commingle domestic (stopover) passengers who have already cleared Customs at their port of arrival and are continuing on to another U.S. destination, with international passengers who are arriving at their port of arrival and have not yet cleared Customs, a progressive clearance fee of \$2.00 per domestic (stopover) passenger reinspection in the U.S. will be charged by Customs to the affected airlines to offset the additional cost to Customs of reinspecting passengers who have already been cleared. The fee is in addition to any other charges currently incurred, such as overtime services, but will not apply to passengers reinspected on an overtime basis if the cost of performing such reinspection is reimbursed to Customs in accordance with 19 U.S.C. 1451.

The fee will not apply to the reinspection of non-revenue producing passengers, including but not limited to, employees of the carrier and their dependents, deadhead crew, employees of other carriers who may be assessed a service charge by the transporting carrier, and other persons to whom the carrier is authorized to provide free transportation pursuant to 14 CFR part 233. The airline industry will be notified at least 90 days in advance of the date of any change in the amount of the fee necessitated by either an increase or decrease in costs to Customs, but no new fee shall take effect before January 1, 1986.

[28 FR 14808, Dec. 31, 1963]

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting § 24.12, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 24.13 Car, compartment, and package seals; kind, procurement.

(a) Customs seals accepted pursuant to § 24.13a of this chapter shall be used in sealing openings, packages, conveyances, or articles requiring the security provided by such sealing.

(b) Red in-bond and high security red in-bond seals used for sealing imported merchandise shipped between ports in the United States shall be stamped "U.S. Customs in Bond." Uncolored seals used to seal containers of commercial traveler's samples transiting the United States as provided by § 123.52 of this chapter shall be stamped "Canada-United States Customs." [U.S. Transit], and uncolored seals used to seal containers of commercial traveler's samples transiting the United States as provided by § 123.52 of this chapter shall be stamped "Canada-United States Customs." Blue in-transit seals used to seal merchandise transiting foreign territory or waters between ports in the United States as provided in § 123.24 of this chapter shall be stamped "U.S. Customs In-Transit." Yellow in-transit seals used on rail shipments of merchandise and on containers of commercial traveler's samples transiting Canada between U.S. ports as provided in §§ 123.24 and 123.51 of this chapter shall be stamped [U.S. Customs]

[Can. Transit] for use on railroad cars, and "United States-Canada Customs" for use on samples. Uncolored seals used for Customs purposes other than for (1) shipping in bond, (2) shipping by other than a bonded common carrier in accordance with section 553, Tariff Act of 1930, as amended, or (3) shipping in transit shall be stamped "U.S. Customs." All seals (except uncolored in-transit seals on containers of commercial traveler's samples and seals for use on airline liquor kits) shall be stamped with the name of the port for which they are ordered. Each strap seal shall be stamped with a serial number. Each automatic metal seal shall be stamped with a symbol number and, when required, with a serial number.

(c) *Purchase of seals.* Bonded carriers of merchandise, commercial associations representing the foregoing or comparable organizations approved by the port director under paragraph (f) of this section, a foreign trade zone operator and bonded warehouse proprietors may purchase quantity supplies of in-bond and in-transit seals from manufacturers approved under the provisions of § 24.13a. The order shall be prepared by the purchaser and, except as hereinafter noted, shall be confined to seals for use at one port and shall specify the kind and quantity of seals desired, the name of the port at which they are to be used, and the name and address of the consignee to whom they are to be shipped. Seals for use on airline liquor kits need not specify the name of the port at which they are to be used, and orders for such seals need not be confined to seals for use at one port. Carriers and bonded warehouse proprietors may purchase small emergency supplies of in-bond and in-transit seals from port directors, who will keep a supply of such seals for this purpose. An order for green or uncolored in-transit seals shall be submitted to the office of the Director of Customs-Excise Inspection, Ottawa, Canada, for approval and forwarding to the manufacturer. An order for green strap-in bond seals for use on railroad cars must stipulate that the seals are to be consigned to the collector of customs and excise in Canada at the port indicated on the seals for entry purposes

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and storage under Customs lock and key.

(d) The manufacturer or supplier shall ship the seals to the consignee named in the order and shall advise the director of the port to which the seals are shipped as to the kind and quantity of seals shipped, the name of the port (where required), serial numbers, and symbol number (where required) stamped thereon, the name and address of the consignee, and the date of shipment.

(e) [Reserved]

(f) *Port director approval required.* In-bond seals may be purchased only by a foreign trade zone operator or Customs bonded warehouse proprietor, a customs bonded carrier, a nonbonded carrier permitted to transport articles in accordance with section 553, Tariff Act of 1930, as amended (19 U.S.C. 1553) or in the case of red in-bond and high security red in-bond seals, the carrier's commercial association or comparable representative approved by the port director. In-transit seals may be purchased by a bonded or other carrier of merchandise or, in the case of blue in-transit seals, by the carrier's commercial association or comparable representative approved by the port director. Except for uncolored in-transit seals, uncolored Customs seals may not be purchased by private interests and shall be furnished by port directors for authorized use without charge. In-bond and in-transit seals sold by port directors shall be charged for at the rate of 10 cents per seal, except for high security red in-bond seals which shall be charged for at the current manufacturer's list price for the quantity purchased.

[28 FR 14808, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 24.13, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 24.13a Car, compartment, and package seals; and fastenings; standards; acceptance by Customs.

(a) *General standards.* The seals and fastenings, together, shall

(1) Be strong and durable;

(2) Be capable of being affixed easily and quickly;

(3) Be capable of being checked readily and identified by unique marks (such as a logotype) and numbers;

(4) Not permit removal or undoing without breaking, or tampering without leaving traces;

(5) Not permit use more than once; and

(6) Be made as difficult as possible to copy or counterfeit.

(b) *Seal specifications.* (1) The shape and size of the seal shall be such that any identifying marks are readily legible.

(2) Each eyelet in a seal shall be of a size corresponding to that of the fastening used, and shall be positioned so that the fastening will be held firmly in place when the seal is closed.

(3) The material used shall be sufficiently strong to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering under normal usage.

(4) The material used shall be selected with reference to the sealing system used.

(c) *Fastening specifications.* (1) The fastening shall be strong and durable and resistant to weather and corrosion.

(2) The length of the fastening used shall not enable a sealed aperture to be opened or partly opened without the seal or fastening being broken or otherwise showing obvious damage.

(3) The material used shall be selected with reference to the sealing system used.

(d) *Identification marks.* (1) If the seal is to be purchased and used by U.S. Customs, the seal or fastening, as appropriate, shall be marked to show that it is a U.S. Customs seal by application of the words "U.S. Customs" and a unique identification number on the seal.

(2) If the seal is to be used by private industry (i.e., a shipper, manufacturer, or carrier), it must be clearly and legibly marked with a unique company name (or logotype) and identification number.

(e) *Customs acceptance.* Seals will be considered as acceptable for use and/or purchase by U.S. Customs as soon as the manufacturer attests that the seals have been tested and meet or exceed the standards provided in paragraphs

(a) through (d) of this section, and will continue to be considered acceptable until such time as it is demonstrated that they do not meet the standards. A manufacturer may attest to the qualification of a specific seal, or to an entire product line of seals as of a certain date. Any addition of a seal to a group of seals attested to as a group would require specific acceptance of that seal by Customs.

(f) *Testing.* All testing of seals deemed necessary before Customs acceptance will be done by the manufacturer or by a private laboratory, and not by Customs. However, Customs reserves the right to test, or to have tested, seals that have been accepted by Customs.

(g) *Records.* The manufacturer's attestation that a seal meets or exceeds the standards specified in this section and, if deemed necessary by Customs, the seal test record shall be sent to the Assistant Commissioner, Field Operations, Headquarters, U.S. Customs Service, Washington DC 20229.

[T.D. 81-185, 46 FR 36842, July 16, 1981, as amended by T.D. 91-77, 56 FR 46114, Sept. 10, 1991]

§ 24.14 Salable Customs forms.

(a) Customs forms for sale to the general public shall be designated by the Commissioner of Customs, or his delegate. Customs forms which are designated as salable shall meet the following conditions: (1) The form is distributed to private parties for use in completing customs transactions; (2) the quantity used nationwide annually is sufficient to justify the administrative costs involved in selling the form and accounting for the collections involved therein, or the form is primarily for the use of a special group; (3) distribution is or can generally be made in lots of 100 or more; (4) the form is normally distributed to commercial concerns (customhouse brokers, freight forwarders, vessel agents, carriers, regular commercial importers, etc.) rather than to or for the use of individuals or others (tourists, churches, schools, occasional importers, etc.) for non-commercial purposes.

(b) The price of each salable Customs form shall be established by the Commissioner of Customs, or his delegate,

and shall be adjusted periodically as the varying costs of printing and distribution require. A list of salable customs forms showing the price at which each is sold shall be prominently posted in each customhouse in a location accessible to the general public.

(c) Customs forms for sale to the general public, except unusually large or otherwise unsuitable forms, shall normally be prepared in units containing 100 copies. If a completely prepared bill or receipt is presented by the purchaser at the time of the purchase, the port director's paid stamp shall be impressed thereon; otherwise, no receipt shall be given.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 75-132, 40 FR 24519, June 9, 1975]

§ 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.

(a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), or section 451, Tariff Act of 1930, as amended (19 U.S.C. 1451), shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451, or section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Reimbursements of overtime compensation shall be collected by the port director from the applicants for the services. Customs Officers entitled to overtime compensation and premium pay, pursuant to the provisions of the Customs Officer Pay Reform legislation (19 U.S.C. 261 and 267, as amended), shall not receive pay or other compensation for that work under any other provision of law. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a timely application therefor during regular hours of business when the need for the services can reasonably be foreseen, nor in any case until the maximum probable reimbursement is adequately secured.

(b) *Definitions.* For purposes of this section, the following words and phrases have the meanings indicated:

(1) *The Act* refers to Part II, Subchapter D of the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66.

(2) *Administrative workweek* means a period of seven consecutive calendar days beginning Sunday and continuing through the following Saturday.

(3) *Base pay* means the rate of pay fixed by law or administrative action for the position held by the Customs Officer.

(4) *Callback* means the irregular or occasional overtime work performed by a Customs Officer either on a day when work was not regularly scheduled for that officer or which begins at least one hour after the end of the officer's regularly-scheduled tour of duty and ends at least one hour before the beginning of the following regularly-scheduled assignment and requires the officer to return to a place of work.

(5) "Commute compensation" means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for returning to work, under certain conditions, to perform an overtime work assignment. Commute compensation, within the limits prescribed by the Act, shall be treated as overtime compensation, and is includable for Federal retirement benefit purposes.

(6) *Continuous assignment* means the grouping of multiple overtime assignments, performed by the same Customs Officer(s), which are separated by periods of non-work, into a single unit for computation of pay purposes.

(7) *Customs Officer* means only those individuals assigned to position descriptions entitled "Customs Inspector," "Supervisory Customs Inspector," "Canine Enforcement Officer," or "Supervisory Canine Enforcement Officer."

(8) *Fiscal year pay cap* refers to the statutory maximum, in effect for the year involved, in overtime and premium pay a Customs Officer shall receive in that fiscal year. This aggregate limit may be waived by the Commissioner of Customs or his/her designee in individual cases in order to prevent excessive costs or to meet

emergency requirements of the Customs Service.

(9) *Holiday* means any day designated as a holiday by a Federal statute or declared by an Executive order.

(10) *Intermittent employee* is a non-full-time employee who does not have a regularly-scheduled tour of duty.

(11) *Majority of hours*, within the context of night work differentials, means more than half of the hours of the daily regularly-scheduled tour of duty.

(12) *Night work* means regularly-scheduled work performed by a Customs Officer on tours of duty, in which a majority of the hours worked occur between the hours of 3:00 p.m. and 8:00 a.m.

(13) *Overtime pay* means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work in excess of the 40 hours of the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day, which may include commute compensation as defined at paragraph (b)(5) of this section. Overtime pay, within the limits prescribed by the Act, is includable for Federal retirement benefit purposes.

(14) *Premium pay differential* means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work on holidays, Sundays and at night. Premium pay is not includable for Federal retirement benefit purposes.

(15) *Regularly-scheduled administrative workweek* means, for a full-time employee, the 40 hour period within an administrative workweek within which the employee is regularly scheduled to work, exclusive of any overtime; for a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

(c) *Application and bond.* (1) Except as provided for in paragraphs (c)(2) and (4) of this section, an application for inspectional services of Customs Officers at night or on a Sunday or holiday, Customs Form 3171, supported by the required cash deposit or bond, shall

be filed in the office of the port director before the assignment of such officers for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the port director or authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the Customs Officers, or the maximum amount which may be charged by law, whichever is less, in connection with the particular services requested. The bond to secure reimbursement shall be on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73), and in an amount to be fixed by the port director, unless another bond containing a provision to secure reimbursement is on file. A bond given on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73), to secure the payment of overtime services rendered private aircraft and private vessels shall be taken without surety or cash deposit in lieu of surety, and the bond shall be modified to so indicate.

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the port director may designate a Customs Officer to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. In each such case the assignment to perform services shall be conditional upon the receipt of the appropriate application and security. Where the security is a cash deposit, the receipt may be properly inscribed to make it serve as a combined receipt for cash deposit in lieu of bond and request for overtime services, in lieu of filing a request for overtime services on Customs Form 3171.

REQUEST FOR OVERTIME SERVICES

Permit Number _____

I hereby request overtime services on _____, 19____, at _____ a.m., p.m., in connection with the entry of my aircraft (vessel).

(Pilot, Owner, or Person in Charge)

(3) An application on Customs Form 3171 for overtime services of Customs Officers, when supported by the required cash deposit or a continuous bond, may be granted for a period not longer than for 1 year. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper Customs Officer will be notified timely during official hours in advance of the services requested as to the exact times that the services will be needed.

(4) Inspectional services will be provided to owners or operators of aircraft without charge for overtime on Sundays and holidays between the hours of 8:00 a.m. and 5:00 p.m. Applications for inspectional services for aircraft during those hours shall be filed as set forth in paragraph (c)(1) of this section, but without cash deposit or bond.

(d) *Work Assignment Priorities.* The establishment of regularly-scheduled administrative tours of duty and assignments of Customs Officers to overtime work under this section shall be made in accordance with the following priorities, listed below in priority order:

(1) *Alignment.* Tours of duty should be aligned with the Customs workload.

(2) *Least Cost.* All work assignments should be made in a manner which minimizes the cost to the government or party in interest. Decisions, including, but not limited to, what hours should be covered by a tour of duty or whether an assignment should be treated as a continuous assignment or subject to commute compensation, should be based on least cost considerations. However, base pay comparison of eligible employees shall not be used in the determination of staffing assignments.

(3) *Annuity integrity.* For Customs Officers within 3 years of their statutory retirement eligibility, the amount of overtime that can be worked is limited to the average yearly number of overtime hours the Customs Officer worked during his/her career with the Customs Service. If the dollar value of the average yearly number of overtime hours worked by such Customs Officer exceeds 50 percent of the applicable statutory pay cap, then no overtime earning limitation based on this annuity

integrity provision would apply. Waivers concerning this annuity integrity limitation may be granted by the Commissioner of Customs or the Commissioner's designee in individual cases in order to prevent excessive costs or to meet emergency requirements of Customs.

(e) *Overtime Pay.* (1) A Customs Officer who is officially assigned to perform work in excess of the 40 hours in the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day shall be compensated for such overtime work performed at 2 times the hourly rate of the officer's base pay, including any locality pay, but not including any premium pay differentials for holiday, Sunday, or night work.

(2) The computation of the amount of overtime worked by a Customs Officer is subject to the following conditions:

(i) *Overtime that is less than one hour.* A quarter of an hour shall be the smallest fraction of an hour used for paying overtime under this subpart.

(ii) *Absence during overtime.* Except as expressly authorized by statute, regulation, or court order (i.e., military leave, court leave, continuation of pay under the workers compensation law, and back pay awards), a Customs Officer shall be paid for overtime work only when the officer reports as assigned.

(f) *Special provisions relating to overtime work on a callback basis—(1) Minimum duration and callback requirements.* Any work for which overtime pay is authorized and for which the Customs Officer is required to return to a place of work shall be treated as being at least 2 hours in duration, but only if such work begins at least 1 hour after the end of any previous regularly-scheduled work assignment and ends at least 1 hour before the beginning of the following regularly-scheduled work assignment. An unpaid meal period shall not be considered a break in service for purposes of callback.

(2) *Commute compensation—Eligibility.* A Customs Officer shall be compensated for overtime when the officer is called back and officially assigned to perform work that:

(i) Is in excess of the 40 hours in the officer's regularly-scheduled adminis-

trative workweek or in excess of 8 hours in a day;

(ii) Begins at least 1 hour after the end of any previous regularly-scheduled work assignment;

(iii) Commences more than 2 hours prior to the start of the officer's next regularly-scheduled work assignment;

(iv) Ends at least 1 hour before the beginning of the officer's next regularly-scheduled work assignment; and,

(v) Commences less than 16 hours after the officer's last regularly-scheduled work assignment. The 16 hours shall be calculated from the end of the Customs Officer's last regularly-scheduled work assignment.

(3) *Commute compensation—Amount.* Commute compensation under this section shall be in an amount equal to 3 times the hourly rate of the Customs Officer's base pay for a one hour period, which includes applicable locality pay, but does not include any premium pay differentials for holiday, Sunday or night work. The Customs Officer shall be entitled to this amount for an eligible commute regardless of the actual commute time. However, an unpaid meal period shall not be considered a break in service for purposes of commute compensation.

(4) *Maximum Compensation for Multiple Assignments.* If a Customs Officer is assigned to perform more than one overtime assignment, in which the officer is required to return to a place of work more than once in order to complete the assignment, and otherwise satisfies the callback requirements of paragraph (f)(1) of this section, then the officer shall be entitled to commute compensation each time the officer returns to the place of work provided that each assignment commences less than 16 hours after the officer's last regularly-scheduled work assignment. However, in no case shall the compensation be greater than if some or all of the assignments were treated as one continuous callback assignment.

(g) *Premium pay differentials.* Premium pay differentials may only be paid for non-overtime work performed on holidays, Sundays, or, at night (work performed, in whole or in part, between the hours of 3:00 p.m. and 8:00 a.m.). A Customs Officer shall receive

payment for only one of the differentials for any one given period of work. The order of precedence for the payment of premium pay differentials is holiday, Sunday, and night work.

(1) *Holiday differential.* A Customs Officer who performs any regularly-scheduled work on a holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 100 percent of that base rate. Holiday differential premium pay will be paid only for time worked. Intermittent employees are not entitled to holiday differentials.

(i) When a holiday is designated by a calendar date, for example, January 1, July 4, November 11, or December 25, the holiday will be observed on that date regardless of Saturdays and Sundays. Customs Officers who perform regularly-scheduled, non-overtime, tours of duty on those days shall be paid the holiday differential. Holidays not designated by a specific calendar date, such as President's Day (the third Monday in February), shall be observed on that date, and Customs Officers who perform regularly-scheduled, non-overtime, work on those days shall be paid the holiday differential.

(ii) Inauguration Day (January 20 of each fourth year after 1965), is a legal public holiday for the purpose of the Act. Customs Officers whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia, who perform regularly-scheduled, non-overtime, work on that day shall be paid the holiday differential. When Inauguration Day falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is the legal public holiday.

(iii) If a legal holiday falls on a Customs Officer's regularly-scheduled day off, the officer shall receive a holiday "in lieu of" that day. Holidays "in lieu of" shall not be granted for Inauguration Day. A Customs Officer who works on an "in lieu of" holiday shall be paid the holiday differential.

(iv) If a Customs Officer is assigned to a regularly-scheduled, non-overtime,

tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on a Monday holiday following a scheduled day off on Sunday and ending at 4 a.m. on Tuesday—the Customs Officer shall receive the holiday differential (up to 8 hours) for work performed during that shift. If the Customs Officer is assigned more than one regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on the Wednesday before a Thursday holiday and ending at 4 a.m. on Thursday with another regularly-scheduled, non-overtime, tour of duty starting at 8 p.m. on the Thursday holiday and ending at 4 a.m. on Friday—the management official in charge of assigning work shall designate one of the tours of duty as the officer's holiday shift and the officer shall receive holiday differential (up to 8 hours) for work performed during the entire period of the designated holiday shift. The Customs Officer shall not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate.

(v) Customs Officers who are regularly scheduled, but not required, to work on a holiday shall receive their hourly rate of base pay for that 8-hour tour plus any Sunday or night differential they would have received had the day not been designated as a holiday. To receive holiday pay under this paragraph, the Customs Officer must be in a pay status (at work or on paid leave), either the last work day before the holiday or the first work day following the holiday.

(vi) A Customs Officer who works only a portion of a regularly-scheduled, non-overtime, holiday shift will be paid the holiday differential for the actual hours worked and the appropriate differential (Sunday or night) for the remaining portion of the shift such officer was not required to work. The night differential premium pay shall be calculated based on the rate applicable to the entire shift.

(2) *Sunday differential.* A Customs Officer who performs any regularly-scheduled work on a Sunday that is not a Federal holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 50 percent of that base rate. Sunday differential premium pay will be paid only for time worked and is not applicable to overtime work performed on a Sunday. A Customs Officer whose regularly-scheduled work occurs in part on a Sunday, that is not a Federal holiday, and in part on the preceding or following day, will receive the Sunday differential premium pay for the hours worked between 12:01 a.m. and 12 Midnight on Sunday. Intermittent employees are not entitled to Sunday differentials.

(3) *Night work differentials.* A Customs Officer who performs any regularly-scheduled night work shall receive pay for that work at the officer's hourly rate of base pay, including locality pay as authorized, plus the applicable premium pay differential, as specified below, but shall not receive such night differential for work performed during overtime assignments. When all or the majority of the hours of a Customs Officer's regularly-scheduled work occur between 3 p.m. and 8 a.m., the officer shall receive a night differential premium for all the hours worked during that assignment. Intermittent employees are not entitled to night differentials.

(i) *3 p.m. to Midnight.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 3 p.m. and 12 Midnight, the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for all the hours worked.

(ii) *11 p.m. to 8 a.m.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 11 p.m. and 8 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 20 percent of that hourly rate of base pay for all the hours worked.

(iii) *7:30 p.m. to 3:30 a.m. Shift.* If the regularly-scheduled shift of a Customs

Officer is 7:30 p.m. to 3:30 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for the work performed between 7:30 p.m. and 11:30 p.m. and 20 percent of that hourly rate of base pay for the work performed between 11:30 p.m. and 3:30 a.m.

(iv) *Work Scheduled During Two Differential Periods.* A Customs Officer shall only be paid one night differential rate per regularly-scheduled shift, except as provided for in paragraph (iii) above. A Customs Officer whose regularly-scheduled work occurs during two separate differential periods shall receive the night differential premium rate which applies to the majority of hours scheduled.

(v) *Night Work Which Occurs in Part on a Sunday.* When a Customs Officer's regularly-scheduled shift occurs in part on a Sunday, the officer shall receive Sunday differential pay for those hours of the work which are performed during the 24 hour period of the Sunday, and the night differential pay for those hours which do not fall on the Sunday. For example, a Customs Officer who is assigned and works a shift which starts at 8 p.m. Sunday and ends at 4 a.m. Monday, shall receive 4 hours of Sunday premium pay and 4 hours of night pay. The night differential pay shall be calculated based on the rate applicable to the particular tour of duty.

(h) *Limitations.* Total payments for overtime/commute, and differentials for holiday, Sunday, and night work that a Customs Officer is paid shall not exceed any applicable fiscal year pay cap established by Congress. The Commissioner of Customs or the Commissioner's designee may waive this limitation in individual cases to prevent excessive costs or to meet emergency requirements of the Customs Service. However, compensation awarded to a Customs Officer for work not performed, which includes overtime awards during military leave or court leave, continuation of pay under workers compensation law, and awards made in accordance with back pay settlements, shall not be applied to any applicable pay cap calculations.

[28 FR 14808, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 24.16, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 24.17 Reimbursable services of Customs employees.

(a) Amounts of compensation and expenses chargeable to parties-in-interest in connection with services rendered by Customs employees during regular hours of duty or on Customs overtime assignments (19 U.S.C. 267, 1451), under one or more of the following circumstances shall be collected from such parties-in-interest and deposited by port directors as repayments to the appropriation from which paid.

(1) When a Customs employee is assigned on board a vessel or vehicle under authority of section 457, Tariff Act of 1930, to protect the revenue, the owner or master of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(2) When a Customs employee is assigned on board a vessel under authority of section 458, Tariff Act of 1930, to supervise the unloading of such vessel, the master or owner of such vessel shall be charged the full compensation of such employee for every day consumed in unloading after the expiration of 25 days after the date of the vessel's entry.

(3) When a Customs employee is assigned under authority of section 304, Tariff Act of 1930, as amended, to supervise the exportation, destruction, or marking to exempt articles from the duty provided for in such section, the importer of such merchandise shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(4) When a Customs employee is assigned pursuant to § 101.4 of this chapter to a Customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel shall be charged the full compensation and authorized travel and subsistence expenses of such em-

ployee from the time he leaves his official station until he returns. When a Customs employee is so assigned to render service in connection with the entry or delivery of merchandise only, the private interest shall be charged only for the authorized travel and subsistence expenses incurred by such employee from the time he leaves his official station until he returns thereto except that no collection need be made if the total amount chargeable against one importer for one day amounts to less than 50 cents (see § 101.4(b) of this chapter). Where the amount chargeable is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made.

(5) When a Customs employee is assigned under authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or to supervise the unloading of cargo, the private interest shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto.

(6) [Reserved]

(7) When a Customs employee is assigned on any vessel or vehicle, under authority of section 456, Tariff Act of 1930, while proceeding from one port to another, the master or owner of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns thereto, or, in lieu of such expenses, the master or owner may furnish such employee the accommodations usually supplied to passengers.

(8) When a Customs employee is assigned under authority of section 562, Tariff Act of 1930, as amended, to supervise the manipulation of merchandise at a place other than a bonded warehouse, the compensation and expenses of such employee shall be reimbursed to the Government by the party in interest. A Customs officer so assigned is not acting as a customs warehouse officer, since the services have no connection with a customs bonded warehouse.

(9) When a Customs employee is assigned to supervise the destruction of merchandise pursuant to section 557(c),

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Tariff Act of 1930, as amended, at a place where a Customs employee is not regularly assigned, the full compensation and expenses of such employee shall be reimbursed to the Government by the party in interest.

(10) When a Customs employee is assigned to supervise the labeling of imported merchandise in accordance with the provisions of §§11.12(b), 11.12a(b), 11.12b(b) of the regulations of this chapter or the removal or obliteration of prohibited markings and trade marks from merchandise which has been detained or seized in accordance with the provisions of §§11.13(c) and 11.17(b) of the regulations of this chapter or to supervise the exportation or destruction of any such merchandise, the compensation and expenses of such Customs employee shall be reimbursed to the Government by the party in interest.

(11) When a Customs employee is assigned to supervise examination, sampling, weighing, repacking, segregation, or other operation on merchandise in accordance with §§151.4, 151.5, 158.11, 158.14, and 158.42 of this chapter, the compensation and other expenses of such employee shall be reimbursed to the Government by the party-in-interest except when a warehouse proprietor is liable therefor.

(12) When a Customs employee is assigned to a centralized hub facility for the purpose of processing express consignment shipments under part 128 of this chapter, the compensation (including overtime) and expenses of such employee shall be reimbursed to the Government by the centralized hub facility.

(13) When a Customs employee is assigned to an express consignment carrier facility for the purpose of processing express consignment shipments under part 128 of this chapter, the cost (including overtime) of the inspectional services provided by such employee shall be reimbursed to Customs by the express consignment carrier facility.

(14) When a Customs employee is assigned to provide Customs services at an airport or other facility under 19 U.S.C. 58b, the facility shall reimburse to the Government an amount equal to the salary and expenses of such em-

ployee (including overtime) plus any other expenses incurred in providing those Customs services at the facility.

(b) When a Customs employee is assigned to render services the nature of which is such that the private interest is required to reimburse the Government for his compensation and on the same assignment performs services for which compensation is not reimbursable, a charge shall be made to the private interest for the full compensation of the Customs employee unless the time devoted to each class of service can be clearly segregated.

(c) The charge for any service enumerated in this section for which expenses are required to be reimbursed shall include actual transportation expenses of a Customs employee within the port limits and any authorized travel expenses of a Customs employee, including per diem, when the services are performed outside the port limits irrespective of whether the services are performed during a regular tour of duty or during a Customs overtime assignment. No charge shall be made for transportation expenses when a Customs employee is reporting to as a first daily assignment, or leaving from as a last daily assignment, a place within or outside the port limits where he is assigned to a regular tour of duty. No charge shall be made for transportation expenses within the port limits or travel expenses, including per diem, outside the port limits in connection with a Customs overtime assignment for which reimbursement of expenses is not covered by this section.

(d) *Computation charge for reimbursable services.* The charge to be made for the services of a Customs employee on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under 5 U.S.C. 5545. The rate per hour equal to 137 percent of the hourly rate of regular pay is computed as follows:

	Hours	Hours
Gross number of working hours in 52 40-hour weeks		2,080

	Hours	Hours
Less:		
9 Legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Teterans Day, Thanksgiving Day, and Christmas Day ..	72
Annual Leave—26 days	208
Sick Leave—13 days	104	384
Net number of working hours		1,696
Gross number of working hours in 52 40-hour weeks		2,080
Working hour equivalent of Government contributions for employee uniform allowance, retirement, life insurance and health benefits computed at 11½ percent of annual rate of pay of employee		239
Equivalent annual working hour charge to Customs appropriation		2,319
Ratio of annual number of working hours charged to Customs appropriation to net number of annual working hours 2,319/1,696=137 percent.		

(1) The charge to be made for the reimbursable services of a Customs employee to perform on a holiday or outside the established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542(a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When such services are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (25 U.S.C. 3101, *et seq.*), and employee uniform allowance. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed excluding lunch periods, charged in multiples of 1 hour, any fractional part of an hour to be charged as 1 hour when the services are performed during the regularly scheduled tour of duty of the officer or between the hours of 8 a.m. and 5 p.m. on weekdays when the officer has no regularly scheduled tour of duty. In no case shall the charge be less than \$1.

(2) The necessary transportation expenses and any authorized per diem expenses of a Customs employee assigned to perform reimbursable services at a location at which he is not regularly assigned shall be reimbursed by the responsible party.

(3) When a Customs employee is regularly assigned to duty at more than one location, the charge for his compensation and transportation expenses in going from one location to another shall be equitably apportioned among the parties concerned. However, no charge shall be made for transportation expenses when a Customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty.

(4) Upon a failure to pay such charges when due, or to comply with the applicable laws and regulations, the port director shall report the facts to the Accounting Services—Accounts Receivable, which shall take appropriate action to collect the charges.

(e) The reimbursable charge for customs overtime compensation shall be computed in accordance with §24.16.

(f) *Medicare Compensation Costs.* In addition to other expenses and compensation chargeable to parties-in-interest as set forth in this section, such persons shall also be required to reimburse Customs in the amount of 1.35 percent of the reimbursable compensation expenses incurred. Such payment will reimburse Customs for its share of Medicare costs.

[28 FR 14808, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §24.17, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§24.18 Preclearance of air travelers in a foreign country; reimbursable cost.

(a) Preclearance is the tentative examination and inspection of air travelers and their baggage at foreign places where U.S. Customs personnel are stationed for that purpose.

(b) At the request of an airline, travelers on a direct flight to the United States from a foreign place described in paragraph (a) of this section may be

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precleared prior to departure from such place. A charge based on the excess cost to Customs of providing preclearance services as defined in paragraph (c) of this section shall be made to the airline.

(c) The reimbursable excess cost is the difference between the cost of examining and inspecting air travelers and their baggage upon arrival in the United States assuming no preclearance was provided, and the cost of providing preclearance for air travelers at the place of departure. Such excess cost shall include all items attributable to the preclearance operation. This does not include the salary of personnel regularly assigned to a preclearance station other than approved salary differentials related to the foreign assignment and the salary of relief details made necessary by reason of the nature of the operation. In addition, such cost shall include the following allowances and expenses:

- (1) Housing allowances;
- (2) Post of duty allowances;
- (3) Education allowances;
- (4) Transportation cost incident to the assignment to the foreign station and return, including transportation of family and household effects;
- (5) Home leave and associated transportation costs; and
- (6) Equipment, supplies and administrative costs including costs of supervising the preclearance installation.

(d) The reimbursable excess cost described in paragraph (c) of this section shall be determined for each preclearance installation. On the basis of the excess cost figure for each installation, the excess cost of providing preclearance service for a biweekly pay period shall be determined. The initial schedule of biweekly excess cost will be based on the actual excess cost for fiscal year 1969. Thereafter, a quarterly (ending with the pay period closely corresponding to June 30, September 30, December 31, and March 31) cost analysis will be conducted and the schedule of biweekly excess costs will be adjusted so that the current biweekly excess cost schedule will reflect the actual excess costs of the previous quarter. Such schedules of biweekly costs for each installation shall be published in the FEDERAL REGISTER. The bi-

weekly excess cost in effect at an installation at the time the charge is made shall be used in calculating the prorated charge for preclearance service for each airline in accordance with paragraph (e) of this section.

(e) The charge to each airline for preclearance service shall be its prorated share of the applicable excess cost prorated to the aircraft receiving such services during the billing period on the following basis:

- (1) Five percent shall be distributed equally among the airlines serviced.
- (2) Ten percent shall be distributed proportionately as the number of clearances serviced bears to the total number of clearances.
- (3) Eighty-five percent shall be distributed proportionately as the number of passengers and/or crew serviced for each airline bears to the total number of passengers and/or crew serviced.

(f) Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), and the expenses recovered thereunder are governed by §24.16 and are in no way affected by this section. (63 Stat. 290; 31 U.S.C. 483a)

[T.D. 70-34, 35 FR 1161, Jan. 29, 1970, as amended by T.D. 85-123, 50 FR 29953, July 23, 1985]

§ 24.21 Administrative overhead charges.

(a) *Reimbursable and overtime services.* An additional charge for administrative overhead costs shall be collected from parties-in-interest who are required to reimburse Customs for compensation and/or expenses of Customs officers performing reimbursable and overtime services for the benefit of such parties under §§24.17 and 24.16, respectively, of this part. The cost of the charge for administrative overhead shall be 15 percent of the compensation and/or expenses of the Customs officers performing the service.

(b) *Other services.* An additional charge for administrative overhead costs shall be collected from parties-in-interest who are required to reimburse Customs for compensation and/or expenses of Customs officers performing various services for the benefit of such

parties. The cost of the charge for administrative overhead shall be 15 percent of the compensation and/or expenses of the Customs officers performing the service. The fees, whether billed or not, include, but are not limited to:

- (1) Navigation fees for vessel services in § 4.98;
 - (2) [Reserved]
 - (3) Fee to establish container stations in § 19.40;
 - (4) Fee for furnishing the names and addresses of importers of merchandise appearing to infringe a registered patent in § 24.12(a)(3);
 - (5) Charge for storing merchandise in a Government-owned or rented building in § 24.12(c);
 - (6) Charge for the sale of in-bond and in-transit seals in § 24.13(f);
 - (7) Charge for the sale of Customs forms in § 24.14(b);
 - (8) Charge for preclearing aircraft in a foreign country in § 24.18;
 - (9) Fee for issuing a customhouse broker's license in § 111.12(a);
 - (10) Fee for designating a carrier or freight forwarder as a carrier of Customs bonded merchandise in § 112.12(a);
 - (11) Fee for issuing a Customs bonded cartman's license in § 112.22(a)(2);
 - (12) Fee for recording of trademarks in § 133.3;
 - (13) Fee for renewing, or recording a change in name of owner, or of ownership of, a trademark in §§ 133.5(d), 133.6(b), 133.7(a)(3);
 - (14) Fee for recording of trade name in § 133.13(b);
 - (15) Fee for recording a copyright in § 133.33(b); and
 - (16) Fee for renewing, or recording a change in name of owner, or of ownership of, a copyright in §§ 133.35(b)(2), 133.36(b), 133.37(a)(3);
- (c) *No administrative overhead charge.* No additional charge for administrative overhead costs discussed in paragraphs (a) and (b) of this section shall be collected if (1) imposition of such charge is precluded by law; (2) there is a formal accounting system for determining administrative overhead for a service, in which case that system shall be used for determining the cost of the charge for administrative overhead; or (3) the charge for administrative overhead for a service is specifically

provided for elsewhere in this chapter.

[T.D. 84-231, 49 FR 46122, Nov. 23, 1984, as amended by T.D. 95-99, 60 FR 62733, Dec. 7, 1995; T.D. 99-64, 64 FR 43266, Aug. 10, 1999]

§ 24.22 Fees for certain services.

(a) *Definitions.* For purposes of this section:

(1) The term *vessel* includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water but does not include any aircraft.

(2) The term *arrival* means arrival at a port of entry in the customs territory of the United States or at any place serviced by any such port of entry.

(3) The expression *calendar year* means the period from January 1 to December 31 of any particular year.

(4) The term *ferry* means any vessel which is being used to provide transportation only between places that are no more than 300 miles apart and which is being used to transport only:

- (i) Passengers, and/or
- (ii) Vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

(b) *Fee for arrival of certain commercial vessels.*

(1) *Vessels of 100 net tons or more.*

(i) *Fee.* Except as provided in paragraphs (b)(2) and (b)(4) of this section, a processing fee in the amount of \$397 shall be tendered by the master, licensed deck officer, or purser upon arrival of any commercial vessel of 100 net tons or more which is required to enter under § 4.3 of this chapter or upon arrival of any U.S.-flag vessel of 100 net tons or more proceeding coastwise under § 4.85 of this chapter. The fee shall be collected for each arrival regardless of the number of arrivals taking place in the course of a single voyage.

(ii) *Fee limitation.* No fee or portion thereof shall be collected under paragraph (b)(1)(i) of this section for the arrival of a vessel during any calendar year after a total of \$5,955 in fees has been paid under paragraphs (b)(1)(i) and (b)(2)(i) of this section for all arrivals of such vessel during such calendar year, provided that adequate proof of such total payment is submitted to Customs.

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(2) *Barges and other bulk carriers from Canada or Mexico.*

(i) *Fee.* A processing fee of \$100 shall be tendered upon arrival of any barge or other bulk carrier which arrives from Canada or Mexico either in ballast or transporting only cargo laden in Canada or Mexico. The fee shall be collected for each arrival regardless of the number of arrivals taking place in the course of a single voyage. For purposes of this paragraph, the term “barge or other bulk carrier” means any vessel, other than a ferry, which is not self-propelled or which transports fungible goods that are not packaged in any form.

(ii) *Fee limitation.* No fee or portion thereof shall be collected under paragraph (b)(2)(i) of this section for the arrival of a barge or other bulk carrier during any calendar year after a total of \$1,500 in fees has been paid under paragraphs (b)(1)(i) and (b)(2)(i) of this section for all arrivals of such vessel during such calendar year, provided that adequate proof of such total payment is submitted to Customs.

(3) *Prepayment.* The vessel operator, owner or agent may at any time prepay the maximum calendar year amount specified in paragraph (b)(1)(ii) or (b)(2)(ii) of this section or any remaining portion thereof if individual arrival fees have already been paid on the vessel for that calendar year. Prepayment may be made at a Customs port office or may be mailed to: U.S. Customs Service, Accounting Services, P.O. Box 68907, Indianapolis, Indiana 46268. In a case involving prepayment of the remaining portion of a maximum calendar year amount, certified copies of receipts (Customs Form 368 or 368A) issued for individual arrival fee payments during the calendar year shall accompany the payment. Where prepayment is made by mail, the payment shall be accompanied by a letter which sets forth the name of the vessel covered by the payment, the calendar year to which the payment applies, a return address, and any other information required under paragraph (i)(1) of this section.

(4) *Exceptions.* The following vessels are exempt from payment of the fees specified in paragraphs (b)(1) and (b)(2) of this section:

(i) Foreign passenger vessels making at least three trips a week from a port in the United States to the high seas and returning to the same U.S. port without having touched any foreign port or place, even though formal entry is still required;

(ii) Any vessel which, at the time of arrival, is being used solely as a tugboat;

(iii) Any government vessel for which no report of arrival or entry is required as provided in §4.5 of this chapter; and

(iv) A ferry.

(c) *Fee for arrival of a commercial truck.*

(1) *Fee.* The driver or other person in charge of a commercial truck shall, upon arrival, proceed to Customs and tender the sum of \$5 for the services provided. The fee shall not apply to any commercial truck which, at the time of arrival, is being transported by any vessel other than a ferry. For purposes of this paragraph, the term “commercial truck” means any self-propelled vehicle, including an empty vehicle or a truck cab without a trailer, which is designed and used for the transportation of commercial merchandise or for the transportation of non-commercial merchandise on a for-hire basis.

(2) *Fee limitation.* No fee shall be collected under paragraph (c)(1) of this section for the arrival of a commercial truck during any calendar year once a prepayment of \$100 has been made and a decal has been affixed to the vehicle windshield as provided in paragraph (c)(3) of this section.

(3) *Prepayment.* The owner, agent or person in charge of a commercial truck may at any time prepay a fee of \$100 to cover all arrivals of such commercial truck during a calendar year or any remaining portion of a calendar year. Prepayment may be made at a Customs port office or by mail in accordance with paragraph (i)(1) of this section, and each prepayment shall be accompanied by a properly completed Customs Form 339, Annual User Fee Decal Request. Once the prepayment has been made under this paragraph, a decal will be issued for placement in the lower left hand corner of the vehicle windshield to show that the vehicle is exempt from payment of the fee for

an individual arrival during the applicable calendar year or any remaining portion thereof.

(d) *Fee for arrival of a railroad car.*

(1) *Fee.* Except as provided in paragraph (d)(6) of this section, a fee of \$7.50 shall be charged for the arrival of each loaded or partially loaded passenger or commercial freight railroad car. The railroad company receiving a railroad car in interchange at a port of entry or, barring interchange, the company moving a car in line haul service into the customs territory of the United States, shall be responsible for payment of the fee. Payment of the fee shall be made in accordance with the procedures set forth in paragraph (d)(3) or (d)(4) of this section. For purposes of this paragraph, the term "railroad car" means any carrying vehicle, measured from coupler to coupler and designed to operate on railroad tracks, other than a locomotive or a caboose.

(2) *Fee limitation.* No fee shall be collected under paragraph (d)(1) of this section for the arrival of a railroad car during any calendar year once a prepayment of \$100 has been made as provided in paragraph (d)(3) of this section, provided that adequate records are maintained to enable Customs to verify any such prepayment.

(3) *Prepayment.* As an alternative to the payment procedures set forth in paragraph (d)(4) of this section, a railroad company may at any time prepay a fee of \$100 to cover all arrivals of a railroad car during a calendar year or any remaining portion of a calendar year. Each prepayment, accompanied by a letter setting forth the railroad car number(s) covered by the payment, the calendar year to which the payment applies, a return address, and any additional information required under paragraph (i)(1) of this section, shall be mailed to: Accounting Services—Accounts Receivable, P.O. Box 68907, Indianapolis, Indiana 46268.

(4) *Statement filing and payment procedures.* (i) The Association of American Railroads (AAR), the National Railroad Passenger Corporation (AMTRAK), and any railroad company preferring to act individually, shall file monthly statements with Customs, and shall make payment of the arrival fees to Customs, in accordance with the procedures set

forth in paragraphs (d)(4) (ii) and (i) of this section. Each monthly statement shall indicate:

(A) The number of railroad cars subject to the arrival fee during the relevant period;

(B) The number of such railroad cars pulled by each carrier; and

(C) The total processing fees due from each carrier for the relevant period.

(ii) AMTRAK and railroad companies acting individually shall file each monthly statement within 60 days after the end of the applicable calendar month, and the fees covered by each statement shall be remitted with the statement. Monthly statements prepared by the AAR on behalf of individual railroad companies shall be filed within 60 days after the end of the applicable calendar month, and each railroad company shall remit the fees as calculated for it by the AAR within 60 days after the end of that calendar month. In cases of conflict between the AAR and an individual railroad company regarding calculation of the fees, the railroad company shall timely remit the amount as calculated by the AAR even if the dispute is unresolved. Subsequent settlements may be accounted for by an explanation in, and adjustment of, the next payment to Customs.

(5) *Maintenance of records.* The AAR, AMTRAK, and each railroad company preparing and filing its own statements shall maintain all documentation necessary for Customs to verify the accuracy of the fee calculations and to otherwise determine compliance under the law. Such documentation shall be maintained in the United States for a period of 5 years from the date of fee calculation. The AAR, AMTRAK, and each railroad company preparing and filing its own statements shall provide to Customs the name, address, and telephone number of a responsible officer who is able to verify any statements or records required to be filed or maintained under this section, and shall promptly notify Customs of any changes in identifying information previously submitted, in accordance with the procedures set forth in paragraph (i)(2) of this section.

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(6) *Exceptions.* The following railroad cars are exempt from payment of the fee specified in paragraph (d)(1) of this section:

(i) Any railroad car whose journey originates and terminates in the same country, provided that no passengers board or disembark from the train and no cargo is loaded or unloaded from the car while the car is within any country other than the country in which the car originates and terminates, including any such railroad car which is set out for repairs outside the United States and then returned to on-line service without having undergone loading or unloading of passengers or cargo during the repair period;

(ii) Any railroad car transporting only containers, bins, racks, dunnage and other fixed or loose equipment or materials which have been used for enclosing, supporting or protecting commercial freight; and

(iii) Any railroad car which, at the time of arrival, is being transported by any vessel other than a ferry.

(e) *Fee for arrival of a private vessel or private aircraft.*

(1) *Fee.* Except as provided in paragraph (e)(3) of this section, the master or other person in charge of a private vessel or private aircraft shall, upon first arrival in any calendar year, proceed to Customs and tender the sum of \$25 to cover services provided in connection with all arrivals of such vessel or aircraft during that calendar year. Upon payment of this annual fee, a decal will be issued and shall be affixed to the vessel or aircraft as evidence that the fee has been paid. Except in the case of private aircraft, all overtime charges provided for in this part remain payable notwithstanding payment of the fee specified in this paragraph.

(2) *Prepayment.* A private vessel or private aircraft owner or operator may, at any time during the calendar year, prepay the \$25 annual fee specified in paragraph (e)(1) of this section. Prepayment may be made at a Customs port office, or by mail in accordance with paragraph (i)(1) of this section, and shall be accompanied by a properly completed Customs Form 339, Annual User Fee Decal Request.

(3) *Exceptions.* The following are exempt from payment of the fee specified in paragraph (e)(1) of this section:

(i) Private pleasure vessels of less than 30 feet in length, so long as they are not carrying any goods required to be declared to Customs;

(ii) Any private pleasure vessel granted a cruising license under §4.94 of this chapter, during the term of the license; and

(iii) Any private vessel which, at the time of arrival, is being transported by any vessel other than a ferry.

(f) *Fee for dutiable mail.* The addressee of each item of dutiable mail for which a Customs officer prepares documentation shall be assessed a processing fee in the amount of \$5. When the merchandise is delivered by the Postal Service, the fee shall be shown as a separate item on the entry and collected at the time of delivery of the merchandise along with any duty and taxes due. When Customs collects the fee directly from the importer or his agent, the fee will be included as a separate item on the informal entry or entry summary document.

(g) *Fee for arrival of passengers aboard commercial vessels and commercial aircraft.*

(1) *Fee.* Except as provided in paragraph (g)(2) of this section:

(i) For the period from January 1, 1994 through September 30, 1997, a fee of \$6.50 shall be collected and remitted to Customs for services provided in connection with the arrival of each passenger aboard a commercial vessel or commercial aircraft from outside the customs territory of the United States; and

(ii) Commencing on October 1, 1997, a fee of \$5 shall be collected and remitted to Customs for services provided in connection with the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States.

(2) *Exceptions.* The fee specified in paragraph (g)(1) of this section shall not apply to the following categories of arriving passengers:

(i)(A) Except during the period from January 1, 1994 through September 30, 1997, persons whose journey:

(1) Originates in Canada, Mexico, a territory or possession of the United States, or any adjacent island; or

(2) Originates in the United States and is limited to Canada, Mexico, territories and possessions of the United States, and adjacent islands.

(B) For purposes of paragraph (g)(2)(i)(A) and paragraph (g)(3) of this section, a journey, which may encompass multiple destinations and more than one mode of transportation, shall be deemed to originate in the location where the person's travel begins under cover of a transaction which includes the issuance of a ticket or travel document for transportation into the customs territory of the United States. In addition, for purposes of this paragraph, territories and possessions of the United States include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, and adjacent islands include all of the islands in the Caribbean Sea, the Bahamas, Bermuda, St. Pierre, Miquelon, and the Turks and Caicos Islands.

(ii) Crew members and persons directly connected with the operation, navigation, ownership or business of the vessel or aircraft, provided such crew member or other person is traveling for an official business purpose and not for pleasure;

(iii) Diplomats and other persons in possession of a visa issued by the U.S. Department of State in class A-1, A-2, C-2, C-3, G-1 through G-4, or NATO 1-6;

(iv) Except during the period from January 1, 1994 through September 30, 1997, persons departing from and returning to the United States without having touched a foreign port or place;

(v) Persons arriving as passengers on any aircraft used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision thereof, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the U.S. Department of Defense are exempted if they have been precleared abroad under the joint DOD/Customs Military Inspection Program;

(vi) Persons arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign airport; and

(vii) Persons who are in transit to a destination outside the United States and for whom Customs inspectional services are not provided.

(3) *Fee collection procedures.* Each air or sea carrier, travel agent, tour wholesaler, or other party issuing a ticket or travel document for transportation into the customs territory of the United States is responsible for collecting from the passenger the fee specified in paragraph (g)(1) of this section. The fee shall be separately identified with a notation "Federal inspection fees" on the ticket or travel document to indicate that the required fee has been collected from the passenger. If the ticket or travel document is not so marked and was issued in a foreign country, the fee shall be collected by the departing carrier upon departure of the passenger from the United States. If the fee is collected at time of departure from the United States, the carrier making the collection shall issue a receipt to the passenger. U.S.-based tour wholesalers who contract for passenger space and issue non-carrier tickets or travel documents shall collect the fee in the same manner as a carrier. Collection of the fee shall include the following circumstances:

(i) When a through ticket or travel document is issued covering a journey into the customs territory of the United States which originates in a location other than one specified in paragraph (g)(2)(i)(A)(1) of this section;

(ii) When a return ticket or travel document is issued in connection with a journey which originates in the United States and includes a stop in a location other than one specified in paragraph (g)(2)(i)(A)(2) of this section; or

(iii) When a passenger arrives in the customs territory of the United States in transit from a location other than one specified in paragraph (g)(2)(i)(A)(1) of this section and is processed by Customs.

(4) *Payment and quarterly statement procedures.* Payment to Customs of the fees required to be collected under paragraphs (g) (1) and (3) of this section

shall be made no later than 31 days after the close of the calendar quarter in which the fees were required to be collected from the passenger. Payment of the fees shall be made by the air or sea carrier, travel agent, tour wholesaler, or other party which issued the ticket or travel document or, in the case of a ticket or travel document issued in a foreign country without the required notation to indicate that the fee was collected from the passenger, by the carrier which provided transportation to the passenger when departing from the United States. Each quarterly fee payment shall be remitted in accordance with the procedures set forth in paragraph (i) of this section and shall be accompanied by a statement which includes the following information:

- (i) The name and address of the party remitting payment;
- (ii) The taxpayer Identification number of the party remitting payment; and
- (iii) The calendar quarter covered by the payment.

Overpayments or underpayments may be accounted for by an explanation in, and adjustment of, the next due quarterly payment to Customs.

(5) Each carrier contracting with a U.S.-based tour wholesaler is responsible for notifying Customs of each flight or voyage so contracted, the number of spaces contracted for on each flight or voyage, and the name, address and taxpayer identification number of the tour wholesaler, within 31 days after the close of the calendar quarter in which such a flight or voyage occurred.

(6) *Maintenance of records.* Each air or sea carrier, travel agent, tour wholesaler, or other party affected by this paragraph shall maintain all such documentation necessary for Customs to verify the accuracy of fee calculations and to otherwise determine compliance under the law. Such documentation shall be maintained in the United States for a period of 5 years from the date of fee calculation. Each such affected party shall provide to Customs the name, address, and telephone number of a responsible officer who is able to verify any statements or records required to be filed or maintained under

this section, and shall promptly notify Customs of any changes in the identifying information previously submitted, in accordance with the procedures set forth in paragraph (i)(2) of this section.

(7) *Limitation on charges.* Except in the case of costs reimbursed under §24.17(a)(14) of this part, Customs services provided to passengers arriving in the United States on scheduled airline flights (as defined in §122.1(k) of this chapter and operating within the requirements of subpart D of part 122 of this chapter) shall be provided at no cost to airlines and airline passengers other than the fee specified in paragraph (g)(1) of this section.

(h) *Annual customs broker permit fee.* Customs brokers are subject to an annual fee for each permit held by an individual, partnership, association, or corporate broker as provided in §111.96(c) of this chapter.

(i) *Fee remittance and information submission procedures—(1) Fee remittance.* All fee payments required under this section shall be in the amounts prescribed and shall be made in U.S. currency, or by check or money order payable to the United States Customs Service, in accordance with the provisions of §24.1 of this part. If payment is made by check or money order, the check or money order shall be annotated with the appropriate class code, as follows:

- (i) Commercial vessels (other than barges and other bulk carriers from Canada or Mexico), 491;
- (ii) Barges and other bulk carriers from Canada or Mexico, 498;
- (iii) Commercial trucks, 492 for each individual arrival and 902 for any prepayment of the maximum calendar year fee;
- (iv) Railroad cars, 493 for each individual arrival and 903 for any prepayment of the maximum calendar year fee;
- (v) Private vessels, 904;
- (vi) Private aircraft, 494;
- (vii) Dutiable mail, 496;
- (viii) Commercial vessel and commercial aircraft passengers, 495; and
- (ix) Customs broker permits, 497.

Except as otherwise provided in this section, all fee payments not made at the time of arrival shall be mailed to:

U.S. Customs Service, P.O. Box 198151, Atlanta, Georgia 30384. In addition to any information specified elsewhere in this section, each payment by mail shall be accompanied by information identifying the person or organization remitting the fee, the type of fee being remitted (for example, railroad car, commercial truck, private vessel), and the time period to which the payment applies.

(2) *Information submission.* Unless otherwise specified in this section, all information, summaries, reports, or other data required to be submitted to Customs under this section shall be mailed to the Director, Accounting Services—Accounts Receivable, P.O. Box 68907, Indianapolis, Indiana 46268.

(j) *Treatment of fees as Customs duty—*
 (1) *Administration and enforcement.* Unless otherwise specifically provided in this chapter, all administrative and enforcement provisions under the Customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee provided for under this section, and with respect to any person liable for the payment of such fee, as if such fee is a Customs duty. For purposes of this paragraph, any penalty assessable in relation to an amount of Customs duty, whether or not any such duty is in fact due and payable, shall be assessed in the same manner with respect to any fee required to be paid under this section.

(2) *Jurisdiction.* For purposes of determining the jurisdiction of any court or agency of the United States, any fee provided for under this section shall be treated as if such fee is a Customs duty.

[T.D. 93-85, 58 FR 54282, Oct. 21, 1993, as amended by T.D. 94-1, 58 FR 69470, Dec. 30, 1993; 59 FR 8853, Feb. 24, 1994; T.D. 98-56, 63 FR 32944, June 16, 1998]

§ 24.23 Fees for processing merchandise.

(a) *Definitions.* The following definitions apply for the purposes of this section:

(1) *Centralized hub facility.* A *centralized hub facility* is a separate, unique, single purpose facility normally operating outside of Customs operating hours approved by the port director for

entry filing, examination, and release of express consignment shipments, as provided for in part 128 of this chapter on July 30, 1990.

(2) *Entered or released.* Merchandise is *entered or released* if the merchandise is:

(i) Released under a special permit for immediate delivery under 19 U.S.C. 1448(b);

(ii) Entered or released from Customs custody under 19 U.S.C. 1484(a)(1)(A); or

(iii) Withdrawn from warehouse for consumption.

(3) *Express consignment carrier facility.* An *express consignment carrier facility* is a separate or shared specialized facility approved by the port director solely for the examination and release of express consignment shipments, as provided for in part 128 of this chapter on July 30, 1990.

(4) *Manual entry or release.* Any reference to a *manual* formal or informal entry or release shall not include:

(i) Any formal or informal entry or release filed by an importer or broker who is operational for cargo release through the Automated Broker Interface (ABI) of the Customs Automated Commercial System (ACS) at any port within the United States;

(ii) Any formal or informal entry or release filed at a port where cargo selectivity is not fully implemented if filed by an importer or broker who is operational for ABI entry summary; or

(iii) Any informal entry or any Line Release filed at a port where cargo selectivity is fully implemented if filed by an importer or broker who is operational for ABI entry summary.

(5) *Small airport or other facility.* A *small airport or other facility* is any airport or other facility which has been designated as a user fee facility under 19 U.S.C. 58b and at which more than 25,000 informal entries were processed during the preceding fiscal year.

(b) *Fees—*(1) *Formal entry or release—*

(i) *Ad valorem fee—*(A) *General.* Except as provided in paragraph (c) of this section, merchandise that is formally entered or released is subject to the payment to Customs of an ad valorem fee of 0.21 percent. The fee shall be due and payable to Customs by the importer of record of the merchandise at the time of presentation of the entry summary and shall be based on the value of the

merchandise as determined under 19 U.S.C. 1401a.

(B) *Maximum and minimum fees.* Subject to the provisions of paragraphs (b)(1)(ii) and (d) of this section relating to the surcharge and to aggregation of the ad valorem fee respectively, the ad valorem fee charged under paragraph (b)(1)(i)(A) of this section shall not exceed \$485 and shall not be less than \$25.

(ii) *Surcharge for manual entry or release.* In the case of any formal manual entry or release of merchandise, a surcharge of \$3 shall be assessed and shall be in addition to any ad valorem fee charged under paragraphs (b)(1)(i)(A) and (B) of this section.

(2) *Informal entry or release.* (i) Except as provided in paragraphs (b)(2)(ii) and (c) of this section, merchandise that is informally entered or released is subject to the payment to Customs of a fee of:

(A) \$2 if the entry or release is automated and not prepared by Customs personnel;

(B) \$6 if the entry or release is manual and not prepared by Customs personnel; or

(C) \$9 if the entry or release, whether automated or manual, is prepared by Customs personnel.

(ii) With respect to the processing of merchandise that is informally entered or released at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following payments shall be made in lieu of the specific fees provided for in paragraph (b)(2)(i) of this section:

(A) In the case of a centralized hub facility or small airport or other facility, payment by the facility in an amount equal to the reimbursement (including overtime) which the facility is required to make during the fiscal year under §24.17 of this chapter; and

(B) In the case of an express consignment carrier facility, payment by the facility in an amount equal to the cost (including overtime) of the Customs inspectional services provided at the facility during the fiscal year for which Customs is reimbursed under §24.17 of this chapter.

(c) *Exemptions and limitations.* (1) The ad valorem fee, surcharge, and specific fees provided for under paragraphs

(b)(1) and (b)(2)(i) of this section shall not apply to:

(i) Except as provided in paragraph (c)(2) of this section, articles provided for in chapter 98, Harmonized Tariff Schedule of the United States (HTSUS; 19 U.S.C. 1202);

(ii) Products of insular possessions of the U.S. (General Note 3(a)(iv), HTSUS);

(iii) Products of beneficiary countries under the Caribbean Basin Economic Recovery Act (General Note 7, HTSUS);

(iv) Products of least-developed beneficiary developing countries (General Note 4(b)(i), HTSUS); and

(v) Merchandise described in General Note 19, HTSUS, merchandise released under 19 U.S.C. 1321, and merchandise imported by mail.

(2) In the case of any article provided for in subheading 9802.00.60 or 9802.00.80, HTSUS:

(i) The surcharge and specific fees provided for under paragraphs (b)(1)(ii) and (b)(2)(i) of this section shall remain applicable; and

(ii) The ad valorem fee provided for under paragraph (b)(1)(i) of this section shall be assessed only on that portion of the cost or value of the article upon which duty is assessed under subheadings 9802.00.60 and 9802.00.80.

(3) The ad valorem, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply to goods originating in Canada or Mexico within the meaning of General Note 12, HTSUS (see also 19 U.S.C. 3332), where such goods qualify to be marked, respectively, as goods of Canada or Mexico pursuant to Annex 311 of the North American Free Trade Agreement and without regard to whether the goods are marked. For qualifying goods originating in Mexico, the exemption applies to goods entered or released (as defined in this section) after June 29, 1999. Where originating goods as described above are entered or released with other goods that are not originating goods, the ad valorem, surcharge, and specific fees shall apply only to those goods which are not originating goods.

(4) In the case of agricultural products of the U.S. that are processed and packed in a foreign trade zone, the ad

valorem fee provided for under paragraph (b)(1)(i) of this section shall be applied only to the value of any material used to make the container for such merchandise, but only if that merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.

(5) The ad valorem fee, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply to products of Israel that are entered, or withdrawn from warehouse for consumption, on or after September 16, 1998 (the effective date of a determination published in the FEDERAL REGISTER on September 1, 1998, under section 112 of the Customs and Trade Act of 1990).

(d) *Aggregation of ad valorem fee.* (1) Notwithstanding any other provision of this section, in the case of entries of merchandise made under any temporary monthly entry program established by Customs before July 1, 1989, for the purpose of testing entry processing improvements, the ad valorem fee charged under paragraph (b)(1)(i) of this section for each day's importations at an individual port shall be the lesser of the following, provided that those importations involve the same importer and exporter:

(i) \$400; or

(ii) The amount determined by applying the ad valorem rate under paragraph (b)(1)(i)(A) of this section to the total value of such daily importations.

(2) The fees as determined under paragraph (d)(1) of this section shall be paid to Customs at the time of presentation of the monthly entry summary. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

(e) *Treatment of fees as Customs duty—*

(1) *Administration and enforcement.* Unless otherwise specifically provided in this chapter, all administrative and enforcement provisions under the Customs laws and regulations, other than those laws and regulations relating to

drawback, shall apply with respect to any fee provided for under this section, and with respect to any person liable for the payment of such fee, as if such fee is a Customs duty. For purposes of this paragraph, any penalty assessable in relation to an amount of Customs duty, whether or not any such duty is in fact due and payable, shall be assessed in the same manner with respect to any fee required to be paid under this section.

(2) *Jurisdiction.* For purposes of determining the jurisdiction of any court or agency of the United States, any fee provided for under this section shall be treated as if such fee is a Customs duty.

[T.D. 91-33, 56 FR 15039, Apr. 15, 1991; 56 FR 25721, June 5, 1991, as amended by T.D. 94-1, 58 FR 69470, Dec. 30, 1993; T.D. 94-32, 59 FR 15046, Mar. 31, 1994; T.D. 95-29, 60 FR 18348, Apr. 11, 1995; T.D. 97-82, 62 FR 51770, Oct. 3, 1997; T.D. 99-1, 63 FR 71372, Dec. 28, 1998; T.D. 99-61, 64 FR 42031, Aug. 3, 1999; T.D. 00-81, 65 FR 68886, Nov. 15, 2000; T.D. 02-14, 67 FR 15098, Mar. 29, 2002]

§ 24.24 Harbor maintenance fee.

(a) *Fee.* Commercial cargo loaded on or unloaded from a commercial vessel is subject to a port use fee of 0.125 percent (.00125) of its value if the loading or unloading occurs at a port within the definition of this section, unless exempt under paragraph (c) of this section or one of the special rules in paragraph (d) of this section is applicable.

(b) *Definitions.* For the purpose of this section:

(1) *Port* means any channel or harbor (or component thereof) in the customs territory of the United States which is not an inland waterway and is open to public navigation and at which Federal funds have been used since 1977 for construction, maintenance or operation. It does not include channels or harbors deauthorized by Federal law before 1985. A complete list of the ports subject to the harbor maintenance fee is set forth below:

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE
 [Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Alabama	
1901—Mobile	
Alaska	
3126—Anchorage	Includes Seldovia Harbor, and Homer. Movements between these points are intraport.
3106—Dalton Cache	Includes Haines Harbor.
3101—Juneau	Includes only Hoonah Harbor. Fee does not apply to Juneau Harbor.
3102—Ketchikan	Includes Metlakatla Harbor. Fee does not apply to Wades Cove.
3127—Kodiak	
3112—Petersburg	Includes Wrangell Narrows.
3125—Sand Point	Includes Humboldt, King Cove and Iliulik Harbor. Fee does not apply to Dutch Harbor.
3115—Sitka	Includes Sergius-Whitestone Narrows.
—St. Paul	
California	
2802—Eureka	Includes Crescent City.
Los Angeles/Long Beach Ports	Includes Ventura, Port Hueneme, Channel Islands Harbor, Santa Barbara, Marina Del Ray, Los Angeles and Long Beach. Movements between these points are intraport.
2709—Long Beach Harbor	
2704—Los Angeles	
2713—Port Hueneme	
2712—Ventura	
2805—Monterrey	
2719—Moro Bay	Includes only Moro Bay.
2501—San Diego	Includes San Diego River and Mission Bay, and Oceanside Harbor.
2707—San Luis	
San Francisco Bay Area Ports*	Includes all points inshore of the Golden Gate Bridge on the bays and the straits and on the Napa, Sacramento and San Joaquin Rivers, and on the deep water channels to Sacramento and Stockton. Movements between points above Suisun Bay (Longitude 122 degrees West at Port Chicago) are intraport. Movements between points below Longitude 122 degrees West and the Golden Bridge are all intraport. All other movements are interport.
2813—Alameda	
2830—Carquinez Strait	
2815—Crockett	
2820—Martinez	
2811—Oakland	
2821—Redwood City	
2812—Richmond	
2816—Sacramento	
2809—San Francisco	
2828—San Joaquin	
2829—San Pablo Bay	
2827—Selby	
2810—Stockton	
2831—Suisun Bay	
Connecticut	
0410—Bridgeport	Includes Housatonic River, and Stamford Harbor, and Wilson Point Harbor. Movements between these points are intraport.
0411—Hartford	Includes all points on the Connecticut River between Hartford and Long Island Sound. Movements within this area are intraport.
0412—New Haven	
0413—New London	Includes all points on the Thames River from the mouth to, and including Norwich, CT. Also includes Groton, CT.
Delaware	
Delaware River Ports, DE, NJ, PA* ..	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements within this area are intraport.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
District of Columbia	
Potomac River Ports, DC, MD, VA*	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport.
5402—Alexandria, VA	
5401—Washington, DC	
Florida	
1807—Boca Grande	
1805—Fernandina Beach	
5205—Fort Pierce	
1803—Jacksonville	
5202—Key West	

United States Customs Service, Treasury

§ 24.24

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE
 —Continued

[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
5201—Miami 1818—Panama City 1819—Pensacola 1816—Port Canaveral 5203—Port Everglades Tampa Bay Ports * 1814—St Petersburg 1801—Tampa 5204—West Palm Beach	For HMF purposes, also includes Carrabelle and Port St. Joe. Includes Alafia River, Port Manatee, Port Sutton, Port Tampa Weedon Island, and all other points on or approached using the Tampa Harbor Channel inshore of the Sunshine Skyway Bridge. Movements between these points are intraport.
Georgia	
1701—Brunswick 1703—Savannah	Includes St. Marys River.
Hawaii	
3202—Hilo 3201—Honolulu 3203—Kahului 3204—Nawiliwili-Port Allen	Includes Kawaihae. Includes Barbers Point Harbor. Includes Kaunakakai Harbor. Includes both Nawiliwili and Port Allen.
Illinois	
Southern Lake Michigan Ports 3901—Chicago, IL 3904—East Chicago, IN 3905—Gary, IN	Includes Waukegan Harbor, IL, Indiana Harbor (East Chicago, IN) Calumet Harbor, the Chicago River (up to the North Avenue Bridge) and the Chicago Harbor. Fee applies at the ports of Michigan City and Burns Waterway Harbor, IN. Fee does not apply at Buffington Harbor or Gary Harbor. Movements within an area from Waukegan, IL to Michigan City, IN are intraport.
Indiana	
Southern Lake Michigan Ports 3901—Chicago, IL 3904—East Chicago, IN 3905—Gary, IN	Includes Waukegan Harbor, IL, Indiana Harbor (East Chicago, IN) Calumet Harbor, the Chicago River (up to the North Avenue Bridge) and the Chicago Harbor. Fee applies at the ports of Michigan City and Burns Waterway Harbor, IN. Fee does not apply at Buffington Harbor or Gary Harbor. Movements within an area from Waukegan, IL to Michigan City, IN are intraport.
Louisiana	
2017—Lake Charles	Includes all points on the Calcasieu River and Pass. Also includes Mermentau River from Catfish Point Control Structure to the Gulf.
Mississippi River Ports/Baton Rouge and Vicinity * 2004—Baton Rouge 2010—Gramercy	Includes all river points from River Mile 115 Above Head of Passes (AHP) at the St. Charles Parish-Jefferson Parish line, to River Mile 233.9 AHP at Baton Rouge. Includes Destrehan, Good Hope, and St. Rose. Movements between these points are intraport.
Mississippi River Ports/New Orleans and Vicinity * 2002—New Orleans 2005—Port Sulphur	Includes all river points from River mile 115 Above Head of Passes (AHP) to Mile 21.6 Below Head of Passes (BHP) via Southwest Pass and to Mile 14.7 BHP via South Pass. Also includes all points on the Inner Harbor Navigation Canal, Avondale, and the Mississippi River Gulf Outlet. Movements between these points are intraport.
2001—Morgan City *	Includes Atchafalaya River from Morgan City to the Gulf. Includes all points on the Houma Navigation Canal, and points on the Gulf Intra-coastal Waterway between Mile 49.8 West and Mile 107.0 West. Movements between these points are intraport.
Maine	
0102—Bangor 0111—Bath 0131—Portsmouth, NH 0132—Belfast	Includes all Penobscot River points (Bucksport and Winterport), and Georges River. Fee does not apply at Belfast, Searsport, Sandy Point, or Castine Harbor.
0101—Portland	
Maryland	
Chesapeake Bay Ports, MD* 1303—Baltimore 1302—Cambridge 1301—Annapolis	Includes all Maryland points on the Chesapeake Bay and its tributary waters except for the Potomac River. Also includes the Waterway from the Delaware River to the Chesapeake Bay west of U.S. 13 highway bridge. Movements between these points are intraport. (Also see Chesapeake Bay Ports: VA.)
Massachusetts	
0401—Boston	Includes all of the Port of Boston inshore of Castle Island on the Inner Harbor and Chelsea and Mystic Rivers and all points on the Weymouth Fore, and Town and Black Rivers, and Dorchester Bay. Also includes Plymouth Harbor. Movements between points on the Saugus River in the North and Plymouth Harbor in the South are intraport.
0404—Gloucester	
0407—Fall River	

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE
 —Continued

[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Michigan	
3843—Alpena	Fee does not apply to Stoneport.
Monroe/Detroit/Harbor Beach	Includes Monroe, Detroit, and the Detroit River, St. Clair River, Port Huron and all points
3801—Detroit	on the Rouge and Black Rivers. Fee also applies at Harbor Beach, MI. All movements
3802—Port Huron	within this area between Monroe and Harbor Beach, MI are intraport.
3808—Escanaba	Fee applies at all points on the little Bay de Noc above Escanaba, including Gladstone
	and Kipling. Movements within an area from Escanaba to the Mackinac Bridge are
	intraport. Fee does not apply at Escanaba.
South Central Lake Superior Ports ...	Includes Ontonagon Harbor, all points on the Harbor, all points on the Keweenaw Water-
3809—Marquette	way, Presque Isle Harbor and Marquette and Grand Marais. Movements between all
3842—Presque Isle	Michigan ports on Lake Superior are intraport.
Eastern Lake Michigan Ports	Fee applies at Charlevoix, Frankfort, Portage Lake, Manatee, Ludington, Pentwater Har-
3815—Muskegon	bor, Ferrysburg, White Lake Harbor, Muskegon, Grand Haven, and South Haven, Hol-
3816—Grand Haven	land, and St. Joseph/Benton Harbor, MI. All movements between Eastern Lake Michi-
3844—Ferrysburg	gan ports are intraport.
Upper Lake Huron Ports	Includes all points on the St. Mary's River, the ports of Cheyboygan, Alpena, Bay City,
3803—Sault Ste. Marie	and Saginaw River. Does not include Alabaster, Cacit, Port Dolomite, Port Inland, Port
3804—Saginaw-Flint-Bay City	Gypsum or Stoneport. Movements within an area from Sault Ste. Marie and the Sagi-
3843—Alpena	naw River are intraport.
Minnesota	
Duluth/Superior Area Ports	Fee applies at Two Harbors and Duluth, MN, and Superior, WI. Fee also applies at Ash-
3601—Duluth	land and Port Wing, WI and Grand Marais, MN. Fee does not apply at Taconite, or Sil-
3602—Ashland	ver Bay, MN. All movements between Silver Bay, MN and Ashland, WI are considered
3608—Superior	intraport.
3614—Silver Bay	
Mississippi	
1902—Gulfport	Does not include Bienville.
1903—Pascagoula	
New Hampshire	
0131—Portsmouth, NH	
New Jersey	
Delaware River Ports, DE, NJ, PA * ..	Includes all points on the Delaware River from Trenton to the sea at a line between
1102—Chester, PA	Cape Henlopen and Cape May, all points on the lower four miles of the Christina
1107—Camden, NJ	River, Delaware, and all points on the lower six miles of the Schuylkill River, PA. Fee
1113—Gloucester, NJ	applies to all movements on the Chesapeake and Delaware Canal east of U.S. High-
1118—Marcus Hook, PA	way 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements be-
1105—Paulsboro, NJ	tween these points are intraport.
1101—Philadelphia, PA	
1103—Wilmington, DE	
1003—Newark	See New York Harbor.
1004—Perth Amboy	See New York Harbor.
New York	
New York Harbor, NY, NJ *	Includes all points in New York and New Jersey with the Port of New York on the waters
1001—New York	inshore of a line between Sandy Hook and Rockaway Point and south of Tappan Zee
1003—Newark	Bridge on the Hudson and west of Throgs Neck Bridge of the East River. Movements
1004—Perth Amboy	between these and all points within the New York Port District boundaries described in
	New York Code (Chapter 154, Laws of New York, 1921), are intraport.
1002—Albany *	Includes all points on the Hudson River between Tappan Zee Bridge and the Troy Lock
	and Dam. Movements between points within this area are intraport.
0901—Buffalo-Niagara Falls	Includes Buffalo Harbor, Black Rock Channel and Tonawanda Harbor, and all points on
	Cattaraugus Creek, and Dunkirk Harbor. Movements between these points are
	intraport.
0706—Cape Vincent	
0701—Ogdensburg	
0904—Oswego	
0903—Rochester	
0905—Sodus Point	Includes Little Sodus Bay Harbor, and Great Sodus Bay Harbor.
North Carolina	
1511—Beaufort-Morehead City	Includes Ocracoke Inlet. Movements within this area are intraport.
1501—Wilmington	Includes all points on the Cape Fear and Northeast Cape Fear Rivers inshore of the At-
	lantic Ocean entrance. Movements within this area are intraport.

United States Customs Service, Treasury

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PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE
 —Continued

[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Ohio	
Lake Erie Ports 4108—Ashtabula 4101—Cleveland 4109—Conneaut 4106—Erie, PA 4111—Fairport 4117—Huron 4121—Lorain 4105—Toledo-Sandusky	Includes Toledo, Sandusky, Huron, Lorain, Cleveland, Fairport, Ashtabula, Conneaut and Erie. Movements between these points are intraport. Fee does not apply at Marblehead.
Oregon	
Columbia River Ports, OR, WA 2901—Astoria, OR 2904—Portland, OR 2909—Kalama, WA 2905—Longview, WA 2908—Vancouver, WA	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River Mile 21. Includes the Multnomah Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.
2903—Coos Bay	Includes Port Orford, the Siuslaw River, and Umpqua River. Movements between these points are intraport.
2902—Newport	Includes Tillamook Bay, and Yaguina Bay and Harbor.
Pennsylvania	
Delaware River Ports, DE, NJ, PA * .. 1102—Chester, PA 1107—Camden, NJ 1113—Gloucester, NJ 1118—Marcus Hook, PA 1105—Paulsboro, NJ 1101—Philadelphia, PA 1103—Wilmington, DE	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements between these points are intraport.
Puerto Rico	
4907—Mayaguez	
4908—Ponce	Does not include Guayanilla and Tallaboa.
4909—San Juan	Includes Arecibo.
Rhode Island	
0502—Providence	Federal project limit: Providence River East of Prudence Island just above Dyer Island and ending at Hurricane Barrier at Fox Point. The areas west of Prudence Island, including Quonset Point, Patience Island, Warwick Neck and Greenwich Bay are not subject to the fee.
South Carolina	
1601—Charleston	Includes the Ashley River, Cooper River, Shipyard River, and Port Royal Harbor. Movements within this area are intraport.
1602—Georgetown	
Texas	
2301—Brownsville	Includes Port Isabel and Brazos Island Harbor. Movements between these points are intraport.
5312—Corpus Christi	
5311—Freeport	
Galveston Bay Ports *	Includes Port Bolivar and all points on Galveston Bay in Galveston County. Movements between points within this area are intraport.
5310—Galveston	
5306—Texas City	
5301—Houston *	Includes Bayport, Baytown, and all other points on or accessed via the Houston Ship Channel from the Liberty/Chambers county line on the north to the Chambers/Galveston county line to the south. Movements within this area are intraport.
5313—Port Lavaca	Includes Matagorda Ship Channel.
Sabine Ports *	Includes Port Neches, Sabine Pass and all other points on the Sabine-Neches Waterway. Movements between these points are intraport.
2104—Beaumont	
2103—Orange	
2101—Port Arthur	
2102—Sabine	

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE
 ————Continued

[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Virginia	
Potomac River Ports, DC, MD, VA *	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport.
5402—Alexandria, VA	
5401—Washington, DC	
Chesapeake Bay Ports, VA *	Includes all Virginia points on the Chesapeake Bay inshore of a line from Cape Henry to Cape Charles, and tributary waters including the ports of Hampton Roads. Does not include the Potomac River or the James River above the James River Bridge at Newport News. Movements between points within this area are intraport. (Also see Chesapeake Bay Ports, MD.)
1406—Cape Charles	
1402—Newport News	
1401—Norfolk	
James River Ports, VA	Includes all points on the James River above the James River Bridge at Newport News. Movements between these points are intraport.
1408—Hopewell	
1404—Richmond/Petersburg	
Washington	
3003—Aberdeen	Includes Grays Harbor and Yaguina Bay and Harbor. Movements between these points are intraport.
Puget Sound Ports, WA *	Fee applies only at ports listed. Bellingham includes all of Bellingham Bay and tributary waters north of Chuchanut Bay on the east, and Portage Island on the west. Port Everett includes all of Port Dardner (an arm of Possession Sound) between Elliott Point on the south to, and including, the Snahomish River on the north. The port of Olympia includes all points on Budd Inlet extending from Cooper and Dofflemeyer Point on the north to, and including, the city of Olympia on the south. The fee applies to all points within the Inner Harbor of the Port of Seattle, including Salmon Bay, Lakes Union and Washington, the Lake Washington Ship Canal, and Kenmore Navigation Channel. Includes all points on Elliott Bay and tributary waters between West Point on the north and Duwamish Head on the south. Fee applies at all points within Tacoma Harbor including all of Commensment Bay and tributary waters between Browns Point on the east and Point Defiance on the west. Movements between these ports and any other U.S. points on Puget Sound or the Strait of Juan de Fuca east of Cape Flattery are intraport.
3005—Bellingham	
3006—Everett	
3007—Port Angeles	
3001—Seattle	
3002—Tacoma	
3026—Olympia	
3010—Anacortes	Includes only access channel and berthing areas adjacent to Anacortes Industrial Park off 30th Street.
Columbia River Ports, WA, OR	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River mile 21. Includes the Multnoma Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.
2901—Astoria, OR	
2904—Portland, OR	
2909—Kalama, WA	
2905—Longview, WA	
2908—Vancouver, WA	
Wisconsin	
3602—Ashland	See Duluth/Superior Area Ports, MN.
Green Bay/Marinette Area Ports	Fee applies to all movements between points along the Sturgeon Bay and Lake Michigan Ship Canal. Fee also applies to Green Bay, Oconto, and Menominee/Marinette. Movements between points from Menominee and points along the Sturgeon Bay and Lake Michigan Ship Canal are intraport.
3703—Green Bay	
3702—Marinette	
Western Lake Michigan Ports	Includes the ports of Milwaukee, Racine, and Sheboygan, MN. All movements between these points are intraport.
3701—Milwaukee	
3708—Racine	
3707—Sheboygan	

*Indicates that a map of this area is available from the Budget Division, Office of Finance, U.S. Customs Service, Room 6328, 1301 Constitution Ave., NW., Washington, DC 20229; tel. 202-927-0034.

(2) *Commercial cargo* means, unless exempted by paragraphs (c) (1) and (2) of this section, merchandise transported on a commercial vessel and passengers transported for compensation or hire. Whenever the term “cargo” is used, it means merchandise, but not passengers.

(3) *Commercial vessel* means, unless exempted by paragraph (c)(3) of this section, any vessel used in transporting

commercial cargo by water for compensation or hire, or in transporting commercial cargo by water in the business of the owner, lessee or operator of the vessel.

(4) *Ferry* means any vessel which arrives in the U.S. on a regular schedule during its operating season at intervals of at least once each business day.

(5) *Humanitarian assistance* is considered to be assistance which is required

for the survival of the affected population in cases of, or in preparation for, emergencies of all kinds. Such relief assistance would include, but is not limited to: food items, shelter, clothing, basic home utensil kits, and small electric generators.

(6) *Development assistance* is considered to be assistance similar to that provided for pursuant to chapter 1 of part 1 of the 1961 Foreign Assistance Act, as amended, 22 U.S.C. 2151-1(b). Such development assistance would include, but is not limited to, aid to promote: Agricultural productivity, reduction of infant mortality, reduction of rates of unemployment and underemployment, and an increase in literacy.

(7) *Non-profit* means an organization or cooperative exempt from income taxation pursuant to 26 U.S.C. 501(c)(3).

(c) *Exemptions.* The following are not subject to the fee:

(1) Bunker fuel, ship's stores, sea stores and vessel equipment.

(2) Fish or other aquatic animal life, caught and not previously landed on shore.

(3) Ferries engaged primarily in the transport of passengers and their vehicles between points within the U.S. or between the U.S. and contiguous countries.

(4) Certain loadings and unloadings of cargo in Alaska, Hawaii, or the possessions of the U.S. as defined in this paragraph.

(i) Descriptions of exempt loadings/unloadings:

(A) Cargo loaded on a vessel in a port in the U.S. mainland for transportation to Alaska, Hawaii, or any possession of the U.S. for ultimate use or consumption in Alaska, Hawaii, or any possession of the U.S.

(B) Cargo loaded on a vessel in Alaska, Hawaii, or any possession of the U.S. for transportation to the U.S. mainland for ultimate use or consumption in the U.S. mainland.

(C) Cargo described in paragraph (c)(4)(i)(A) of this section unloaded in Alaska, Hawaii, or any possession of the U.S.

(D) Cargo described in paragraph (c)(4)(i)(B) of this section unloaded in the U.S. mainland.

(E) Cargo loaded on a vessel in Alaska, Hawaii, or a possession of the U.S. and unloaded in the state or possession in which loaded.

(ii) For purposes of paragraph (c)(4) of this section:

(A) *Cargo* does not include crude oil with respect to Alaska.

(B) *U.S. mainland* means the continental U.S. excluding Alaska.

(C) *Possessions* of the U.S. means Puerto Rico, Guam, American Samoa, U.S. Virgin Islands, the Northern Mariana Islands and the Pacific Trust Territories.

(5) Commercial vessels, if any fuel used to move the cargo is subject to the Inland Waterway Fuel Tax (See section 4042, Internal Revenue Code of 1954, as amended by Pub. L. 95-502 and Pub. L. 99-662).

(6) Cargo entering the U.S. in bond for transportation and direct exportation to a foreign country, unless, with respect to cargo exported to Canada or Mexico;

(i) The Secretary of the Treasury determines that Canada or Mexico has imposed a substantially equivalent port use fee on commercial vessels or commercial cargo using ports of their countries; or

(ii) A study made pursuant to the Water Resources Development Act of 1986 (Pub. L. 99-662) finds that the fee is not likely to cause significant economic loss to a U.S. port or diversion of a significant amount of cargo to a port in a contiguous country.

(7) Cargo or vessels of the U.S. or any agency or instrumentality of the U.S.

(8) Cargo owned or financed by non-profit organizations or cooperatives which is certified by the U.S. Customs Service as intended for use in humanitarian or development assistance overseas, including contiguous countries.

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by Customs. Subsequent to the payment of the fee, a request for refund should be made on an Amended Quarterly Summary Report, Customs Form 350, and forwarded to the Office of Finance, U.S. Customs Service, Headquarters, Washington, DC 20229. To permit certification, supporting evidence that the entity donating the

cargo is a nonprofit organization or cooperative should be included along with supporting evidence that the cargo was intended for humanitarian or development assistance overseas. A description of the cargo listed in the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Copies of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, should be attached for each quarter that a refund is requested.

(ii) Each nonprofit organization or cooperative claiming the exemption under this subpart shall maintain documentation pertaining to the exemption for a period of 5 years. The documentation shall be made available for inspection by Customs in accordance with the provisions of §§ 162.1a through 162.1i of this chapter.

(d) *Special rules*—(1) *Intraport*. The fee is not to be assessed on the mere movement of commercial cargo within a port.

(2) *Same vessel, same cargo*. If a fee is assessed when cargo is loaded on a vessel, the unloading of the same cargo from that vessel is not subject to the fee. If a fee is assessed when cargo is unloaded from a vessel, the reloading of the same cargo on that vessel is not subject to the fee.

(3) *De minimis for individual shipments*. The fee shall not be assessed on loadings or unloadings of cargo in which:

(i) *For imported cargo*: The shipment would be entitled to be entered under informal entry procedures as provided for in § 143.21 of this chapter.

(ii) *For domestic cargo*: The value of the shipment does not exceed \$1,000.

(4) *De minimis for quarterly payments*. Quarterly payment is not required if the total value of all shipments for which a fee was assessed for the quarter does not exceed \$10,000.

(e) *Collections, supplemental payments, and refunds*—(1) *Domestic vessel movements*—(i) *Time and place of liability*. Subject to the exemptions and special rules of this section, when cargo is loaded on a commercial vessel at a port within the definition of this section to be transported between ports in the U.S. or is unloaded from a commercial

vessel at a port within the definition of this section after having been transported between ports in the U.S., the shipper (the person or corporation who pays the freight) of that cargo is liable for the payment of the port use fee at the time of unloading. The fee will be imposed only once on a movement pursuant to paragraph (d)(2) of this section. The fee is to be based upon the value of the cargo as determined by standard commercial documentation where such documentation is available. Otherwise, the value is to be determined under 19 U.S.C. 1401a as if it were imported merchandise. The Vessel Operation Report (Army Corps of Engineers Form 3925) is to be completed and submitted to the Army Corps of Engineers in accordance with the procedures set forth in 33 CFR Ch. II, part 207. The shipper's name, either the internal revenue service or social security number of the shipper and the tax exemption code (as it appears in the Vessel Operation Report instructions) claimed for the shipment are to be included on the Vessel Operation Report.

(ii) *Fee payment*. The shipper whose name appears on the Vessel Operation Report shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915.

(2) *Import vessel movements*—(i) *Time and place of liability*. Subject to the exemptions and special rules of this section, when imported cargo is unloaded from a commercial vessel at a port within the definition of this section, and destined for either consumption, warehousing, or foreign trade zone admission, the importer of that cargo, or in the case of foreign trade zones, the person or corporation responsible for bringing merchandise into the zone, is liable for the payment of the port use fee at the time of unloading. The fee is based on the U.S. Customs appraised value of the shipment pursuant to 19 U.S.C. 1401a, the same basis as that used for duty payment. The fee shall be

collected on all formal entries, including warehouse entries and temporary importation under bond entries, and admissions into foreign trade zones.

(ii) *Fee payment.* The port use fee on unloading of imported cargo shall be paid in accordance with the normal Customs collection procedures set forth in §§24.1 and 141.1 of this chapter, except as provided for merchandise admitted into foreign trade zones in paragraph (e)(2)(iii) of this section. The U.S. Customs Entry Summary Form (Customs Form 7501), is to be completed with the amount of the fee shown and identified on the form. The fee shall be paid by the importer by adding it to any normal duty, tax or fee payable at the time of formal entry processing.

If no other duty, tax, or fee is imposed on the shipment, and the fee exceeds \$3, a check or money order for the amount of the fee shall be attached to the Customs entry forms submitted.

(iii) *Foreign trade zones.* In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, shall pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for the quarter and a Harbor Maintenance Fee Quarterly Summary Sheet, Customs Form 349, to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915. Fees shall be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator.

(3) *Passengers—(i) Time and place of liability.* Subject to the exemptions and special rules of this section, when a passenger boards or disembarks a commercial vessel at a port within the definition of this section, the operator of that vessel is liable for the payment of

the port use fee. The fee is to be based upon the value of the actual charge for transportation paid by the passenger or on the prevailing charge for comparable service if no actual charge is paid. The vessel operator on each cruise is liable only once for the port use fee for each passenger.

(ii) *Fee payment.* The operator of the passenger-carrying vessel shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349.

(4) *Refunds and supplemental payments—(i) General.* To make supplemental payments or seek refunds of harbor maintenance fees paid relative to the unloading of imported cargo, the procedures applicable to supplemental payments or refunds of ordinary duties must be followed. To seek refunds of quarterly-paid harbor maintenance fees pertaining to export movements, the procedures set forth in paragraph (e)(4)(iv) of this section must be followed. To make supplemental payments on any quarterly-paid harbor maintenance fee or seek refunds of quarterly-paid harbor maintenance fees pertaining to other than export movements, the procedures set forth in paragraph (e)(4)(iii) must be followed. The address to mail supplemental payments of quarterly-paid harbor maintenance fees is: U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915. The address to mail requests for refunds of quarterly-paid harbor maintenance fees is: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN, 46278.

(ii) *Time limit for refund requests.* A refund request must be received by Customs within one year of the date the fee for which the refund is sought was paid to Customs or, in the case of fees paid relative to imported merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone under 19 U.S.C. 1309, within one year of the date of withdrawal from the zone.

(iii) *For fees paid on other than export movements.* If a supplemental payment is made for any quarterly-paid harbor

maintenance fee or a refund is requested relative to quarterly fee payments previously made regarding the loading or unloading of domestic cargo, the unloading of cargo destined for admission into a foreign trade zone, or the boarding or disembarking of passengers, the refund request or supplemental payment must be accompanied by a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, along with a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the payment to which the refund request or supplemental payment relates. A request for a refund must specify the grounds for the refund.

(iv) *For fees paid on export movements.* Customs will process refund requests relative to fee payments previously made regarding the loading of cargo for export as follows:

(A) For export fee payments made prior to July 1, 1990, the exporter (the name that appears on the SED or equivalent documentation authorized under 15 CFR 30.39(b)) or its agent must submit a letter of request for a refund specifying the grounds for the refund and identifying the specific payments made. The letter must be accompanied by proof of payment then required under the regulations relative to each payment claimed. Proof of payment can be either a copy of the Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving a letter of request for a refund, Customs will evaluate the supporting documentation submitted and issue the refund to the exporter or its agent if warranted. If the request lacks documentation or the documentation submitted is insufficient, the exporter's refund request will be denied, in which case the exporter will have an additional 120 days from the date of denial to submit documentation or additional documentation. If the documentation submitted during the 120 day period is

insufficient, Customs will deny the request.

(B) For export fee payments made on or after July 1, 1990, the exporter or its agent must submit a letter of request for a refund specifying the grounds for the refund, identifying the quarters for which a refund is sought, and containing the following additional information: The exporter's name, address, and employer identification number (EIN); the name and EIN of any freight forwarder or other agent that made export fee payments on the exporter's behalf; and a name, telephone number, and facsimile number of a contact person. If a refund request is filed by a freight forwarder or other agent on the exporter's behalf, the request must include a properly executed power of attorney and/or a letter signed by the exporter authorizing the representation. Refund requests for payments made on or after July 1, 1990, need not be accompanied by supporting documentation. Upon receipt of the letter of request, Customs will search its records for export fee payments made by or on behalf of the requesting exporter during the quarters identified in the letter of request. Customs will then mail to the exporter or its agent a "Harbor Maintenance Fee Refund Report and Certification" (Report/Certification) containing the results of the search and a statement of the amount of refunds owed to the exporter, if any. If the exporter agrees with the information in the Report/Certification, the exporter must sign the Report/Certification and submit it to Customs with a letter containing an address for mailing the refund. The Report/Certification must be signed by an officer of the company duly authorized to bind the company, or an agent (such as a broker or freight forwarder) authorized to sign the document under a properly executed power of attorney or a letter signed by an authorized officer of the company. Upon receipt of the signed Report/Certification, Customs will issue the refund. If the exporter disagrees with the information in the Report/Certification, the exporter must submit a letter explaining its claim along with proof of payment, either a copy of a Harbor Maintenance Fee Quarterly Summary Report, Customs

Form 349, for the quarter(s) covering the refund requested or, if applicable, a copy of an Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving the letter and documentation, Customs will conduct a second review and will either confirm the exporter's claim and mail a revised Report/Certification to the exporter or its agent, or notify the exporter or its agent that confirmation cannot be made. In the latter instance, the Report/Certification will not be revised. Upon receipt of a properly signed Report/Certification (initial or revised), Customs will issue the refund. The signed Report/Certification received by Customs constitutes the exporter's agreement that Customs payment of the refund amount determined to be owed in the Report/Certification is in full accord and satisfaction of all export fee refund claims. The signed Report/Certification also represents the exporter's release, waiver, and abandonment of all claims against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages. Upon receipt of the signed Report/Certification, Customs releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all export fee payments.

(f) *Quarterly payments.* All quarterly payments required by this section must be received no later than 31 days after the close of the quarter being paid. Quarterly periods end on the last day of March, June, September, and December.

(g) *Maintenance of records.* Each importer, applicant for admission of cargo into a foreign trade zone, shipper and cruise vessel operator affected by this section shall maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a

period of 5 years from the date of fee calculation. The affected parties shall advise the Director, Accounting Services—Accounts Receivable, P.O. Box 68903, Indianapolis, Indiana 46268, of the name, address, and telephone number of a responsible officer who shall be able to verify any records required to be maintained under this paragraph. The Director of Accounting Services, shall be promptly notified of any changes in the identifying information submitted. The records shall be maintained and made available for inspection, copying, reproduction or other official use by Customs in accordance with the provisions of part 163 of this chapter.

(h) *Penalties/liquidated damages for failure to pay harbor maintenance fee and file summary sheet.* (1) *Amount of penalty or damages.* Any party (including the importer, or shipper) who fails to pay the harbor maintenance fee and file the summary sheet at the time specified by regulation shall incur a penalty equal to the amount of liquidated damages assessable for late filing of an entry summary pursuant to the provisions of §142.15 of this chapter. An importer shall be liable for payment of liquidated damages under the basic importation and entry bond, for failure to pay the harbor maintenance fee, as provided in such bond.

(2) *Application for relief.* The party shall follow the procedures set forth in part 171 of this chapter in filing an application for relief. Any application to cancel liquidated damages incurred shall be made in accordance with part 172 of this chapter.

(3) *Mitigation.* Any penalty assessed under this provision shall be mitigated in a manner consistent with guidelines relating to cancellation of claims for liquidated damages for late filing of entry summaries. Any liquidated damages assessed under this provision shall be mitigated in a manner consistent with guidelines published by the authority of the Commissioner of Customs for cancellation of claims for untimely payment of estimated duties, taxes and charges.

(i) *Privacy Act notice.* Whenever an identification number is requested on the summary sheets provided for in

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paragraph (e) of this section, the disclosure of the social security number is mandatory when an internal revenue service number is not disclosed. Identification numbers are solicited under the authority of Executive Order 9397 and Pub. L. 99–662. The identification number provides unique identification of the party liable for the payment of the harbor maintenance fee. The number will be used to compare the information on the summary sheets with information submitted to the government on other forms required in the course of shipping or importing merchandise, which contain the identification number, *e.g.*, Vessel Operation Report, to verify that the information submitted is accurate and current. Failure to disclose an identification number may cause a penalty pursuant to paragraph (h) of this section. The above information is set forth pursuant to the Privacy Act of 1974 (Pub. L. 93–579).

[T.D. 87–44, 52 FR 10201, Mar. 30, 1987; 52 FR 10970, Apr. 6, 1987, as amended by T.D. 91–44, 56 FR 21446, May 9, 1991; T.D. 92–4, 57 FR 609, Jan. 8, 1992; T.D. 92–7, 57 FR 2457, Jan. 22, 1992; T.D. 93–37, 58 FR 30983, May 28, 1993; T.D. 97–45, 62 FR 30449, June 4, 1997; 62 FR 45157, Aug. 26, 1997; 62 FR 51774, Oct. 3, 1997; T.D. 98–64, 63 FR 40823, July 31, 1998; T.D. 99–64, 64 FR 43266, Aug. 10, 1999; T.D. 00–57, 65 FR 53574, Sept. 5, 2000; T.D. 01–25, 66 FR 16857, Mar. 28, 2001; T.D. 01–34, 66 FR 21086, Apr. 27, 2001; T.D. 01–46, 66 FR 34818, July 2, 2001]

§ 24.25 Statement processing and Automated Clearinghouse.

(a) *Description.* Statement processing is a voluntary automated program for participants in the Automated Broker Interface (ABI), allowing the grouping of entry/entry summaries and entry summaries on a daily basis. The related duties, taxes, fees, and interest may be paid with a single payment. The preferred method of payment is by Automated Clearinghouse (ACH) debit or ACH credit, except where the importer of record has provided a separate check payable to the “U.S. Customs Service” for Customs charges (duties, taxes, or other debts owed Customs (see § 111.29(b) of this chapter)). A particular statement payment must be accomplished entirely through ACH or completely by check or cash. A mixing of payment methods for a single state-

ment will not be accepted. ACH debit (see paragraph (b)(2) of this section) is an arrangement in which the filer electronically provides payment authorization for the Treasury-designated ACH processor to perform an electronic debit to the payer’s bank account; ACH credit is described in § 24.26. The payment amount will then be automatically credited to the account of the Department of the Treasury. If a filer chooses to use statement processing for entries of quota-class merchandise and other special classes of merchandise designated by Customs Headquarters under § 142.13(c) of this chapter, he must also use statement processing as a normal course of business for the largest possible portion (see § 24.25(d)) of his eligible non-special class entries; further, he must use the ACH payment mechanism to pay all his ABI statements containing entries for quota-class merchandise. In no circumstance will check or cash be acceptable for payment of ABI statements containing entries for quota-class merchandise.

(b) *How to elect participation*—(1) *Statement processing.* An ABI filer must notify Customs in writing of the intention to utilize statement processing.

(2) *Automated Clearinghouse debit.* If an ABI filer pays his statements through ACH debit, rather than by check, he must provide to Customs the bank routing number and the bank account number for each account from which ACH payments are to be electronically debited. Upon the determination by Customs that the ABI filer has the necessary software to participate and otherwise qualifies to participate in ACH, Customs shall assign a unique identifying payer’s unit number to the participant and the Treasury-designated ACH processor. This unique number assigned by Customs will alert the ACH processor as to which bank and account to issue the electronic debit. If a client of a ABI filer opts to pay Customs charges from his own account through an ABI filer, the client must provide directly to Customs the bank transit routing number and the bank account number for each of his accounts from which ACH payments can be electronically debited. Customs will then assign a unique payer’s unit number to each of his accounts and

provide the assigned unit number directly to the client and the Treasury-designated ACH processor. The client would then provide the appropriate payer's unit number to his broker to pay his statements through ABI. It is the responsibility of the participant to ensure that all bank account information is accurate and that the correct unique payer's unit number is utilized for each ACH transaction.

(c) *Procedure for filer.* (1) The filer shall transmit entry/entry summary and entry summary data through ABI indicating whether payment for a particular entry summary will be by individual check or by using statement processing. If statement processing is indicated, the filer shall designate whether the entry summary is to be grouped by importer or broker, and shall provide a valid scheduled statement date (within 10 days of entry, but not a Saturday, Sunday or holiday).

(2) Customs shall provide a preliminary statement to the ABI filer on the scheduled statement date. The preliminary statement shall contain all entry/entry summaries and entry summaries scheduled for that statement date. The preliminary statement shall be printed by the filer, who will review the statement entries and the statement totals, assemble the required entry summaries as listed in the statement, and present them to Customs with the preliminary statement. This presentation must be made within 10 working days after entry of the merchandise. If a filer elects to perform deletions from the preliminary statement (other than items related to special classes of merchandise provided for in §142.13(c) of this chapter), the filer shall notify Customs in such manner as designated by Customs Headquarters. Any entry number deleted from a statement may be paid by an individual check or scheduled for another statement by transmitting the entry summary data through ABI with a future payment date.

(3) The ABI filer using statement processing is responsible for ensuring that payment is made within 10 days of the entry of the related merchandise.

(4) When payments are made through ACH, Customs shall, upon acceptance of the ACH debit payment authoriza-

tion or ACH credit payment, identify the preliminary statement as paid and shall post the appropriate amounts to the related entries. The final statement generally shall be available to the filer the day following the acceptance of the ACH payment; this final statement may be utilized as evidence that statement payment has occurred through an ACH transaction. In other instances, a cancelled check may serve as evidence of payment.

(d) *Choice of excluding certain entries from statement processing.* An ABI filer using statement processing, generally, has the right to inform Customs electronically whether he desires that a particular entry summary be paid by individual payment or through statement processing. If a filer opts to use statement processing for entry/entry summaries for quota-class and other special classes of merchandise defined in §142.13(c) of this chapter, he shall use statement processing in the normal course of business for the largest possible portion of his eligible non-special class entries also; further, he shall pay for these entry/entry summaries through ACH. If a filer opts to use statement processing and, therefore, ACH for entry/entry summaries for special classes of merchandise defined in §142.13(c) of this chapter, these entry/entry summaries cannot be deleted from a statement. A filer who excludes or deletes entries from the statement process and ACH should be prepared to articulate a sound business reason why these exclusions or deletions have occurred. If Customs believes that a broker is using ACH for his quota-class entries and not using statement processing and ACH for the largest possible portion of his eligible non-special class entries, the ABI participant may be consulted by Customs as to why he has not used statement processing and ACH for certain entries. If Customs is not satisfied, after such consultation, that there were sound articulable business reasons for the exclusion or deletion of non-special class entries, Customs may disqualify the participant from using statement processing/ACH for quota-class entries.

(e) *Scheduled statement date.* Entry/entry summaries and entry summaries

must be designated for statement processing within 10 working days after the date of entry. It is the responsibility of the ABI filer using statement processing to ensure that the elected scheduled statement date is within that 10-day timeframe. Customs will not warn the filer if the scheduled statement date given is late.

[T.D. 89-104, 54 FR 50497, Dec. 7, 1989, as amended by T.D. 98-51, 63 FR 29125, May 28, 1998; T.D. 99-75, 64 FR 56439, Oct. 20, 1999]

§ 24.26 Automated Clearinghouse credit.

(a) *Description.* Automated Clearinghouse (ACH) credit is an optional payment method that allows a payer to transmit statement processing payments (see § 24.25) or deferred tax payments (see § 24.4) or bill payments (see § 24.3) electronically, through its financial institution, directly to the Customs account maintained by the Department of the Treasury.

(b) *Enrollment procedure.* A payer interested in enrolling in the ACH credit program must indicate such interest by providing the following information to the Financial Management Services Center, U.S. Customs Service, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278: Payer name and address; payer contact name(s); payer telephone number(s) and facsimile number; payer identification number (importer number or Social Security number or Customs assigned number); and 3-digit filer code.

(c) *Routing and format instructions.* Following receipt of the enrollment information, the Financial Management Services Center will provide the payer with specific ACH credit routing and format instructions and will advise the payer that the following information must be provided to its financial institution when originating its payments: Company name; company contact person name and telephone number; company identification number (coded Internal Revenue Service employer identification number or DUNS number or Customs assigned number); company payment description; effective date; receiving company name; transaction code; Customs transit routing number and Customs account number; payment amount; payer identifier (importer

number or Social Security number or Customs assigned number or filer code if the payer is a broker who is the importer of record); document number (daily statement number, entry or warehouse withdrawal number for a deferred tax payment, or bill number); payment type code; settlement date; and document payment amount.

(d) *Prenotification procedure.* Before effecting any payments of funds through the ACH credit process, the payer must follow a prenotification procedure, involving a non-funds message transmission through its financial institution to the Customs account, in order to validate the routing instructions. When the routing instructions are validated, the Financial Management Services Center will notify the payer that the prenotification transaction has been accepted and that payments may be originated on or after the tenth calendar day following the prenotification acceptance date.

(e) *Payment origination procedures.* (1) *General.* Once the payer has received authorization to begin originating ACH credit payments under paragraph (d) of this section, the payer, through its financial institution, must originate each payment transaction to the Customs account no later than one business day prior to the payment due date. The payer's account will be charged by the financial institution on the settlement date identified in the transaction. The payer is responsible for following the routing and format instructions provided by Customs and for ensuring the accuracy of the information when originating each payment. Improperly formatted or erroneous information provided by the payer will delay the prompt posting of the payment to the receivable.

(2) *Procedures for daily statement filers.* The procedures set forth in § 24.25(c) for ABI filers using statement processing remain applicable when payment is effected through ACH credit. However, when the ABI filer is a customs broker who is not the importer of record and thus is not responsible for the payment, the ABI filer must provide the statement number and statement amount to the importer of record at least one business day prior to the due

date so that the importer of record can originate the payment.

(f) *Date of collection.* The date that the ACH credit payment transaction is received by Customs shall be the collection date which equates to the settlement date. The appropriate daily statement or entry or warehouse withdrawal or bill shall be identified as paid as of that collection date.

(g) *Removal from the ACH credit program.* If a payer repeatedly provides improperly formatted or erroneous information when originating ACH credit payments, the Financial Management Services Center may advise the payer in writing to refrain from using ACH credit and to submit its payments by bank draft or check pursuant to §24.1 or, in the case of daily statement payments, to use the ACH debit payment method under §24.25.

[T.D. 98-51, 63 FR 29125, May 28, 1998]

§ 24.32 Claims; unpaid compensation of deceased employees and death benefits.

(a) A claim made by a designated beneficiary or a surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee. A claim made by anyone other than a designated beneficiary or surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1155, Claim for Unpaid Compensation of Deceased Civilian Employee. The claims shall be forwarded to the Customs office where the deceased was employed.

(b) Claims for death benefits, either in the form of an annuity or lump-sum payment of the amount to the credit of the deceased officer or employee in the Retirement and Disability Fund shall be executed on standard Form 100, Application for Death Benefit, and forwarded together with a certified copy of the public record of death directly to the Office of Personnel Management, Washington, DC 20415.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 91-77, 56 FR 46114, Sept. 10, 1991]

§ 24.34 Vouchers; vendors' bills of sale; invoices.

(a) Vouchers or invoices for transportation and related services which are intended for payment from official funds shall contain the following certification signed by the claimant:

I certify that the above bill is correct and just and that payment has not been received.

Vouchers, vendors' bills of sale, or invoices for purchases or services other than personal do not require the foregoing certification.

(b) Every voucher shall be in the name of the person or persons furnishing the service or supplies, except in the case of a service or supplies paid for in an emergency by a Customs officer or employee, in which case the voucher may be in the name of the officer or employee who made the payment.

(c) The signature of a claimant made by a mark shall be attested in each case by a disinterested witness.

(d) The dates appearing on vouchers and on receipts filed in support thereof shall always be the actual dates of the transactions recorded or action taken thereon. As many copies in memorandum form, duly authenticated if desired, may be prepared as administrative or other requirements demand.

(e) When an erasure, interlineation, or change of any kind is made in a voucher after it has been certified by the claimant, such correction or change shall be initialed and dated by the claimant.

(f)(1) Vouchers for passenger transportation furnished Customs officers or employees on Government transportation requests, standard Form 1169, and vouchers for transportation of freight and express furnished on Government bills of lading, standard Form 1103, issued by Customs officers or employees shall be rendered on Public Voucher for Transportation Charges, standard Form 1171 or 1113, respectively, to the Customs office to be billed as indicated on the transportation request or bill of lading.

(2) Charges for freight or express must not be included on the same vouchers with charges for passenger transportation. The words "Passenger," "Freight," or "Express," as

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the case may be, should be printed or otherwise placed by the carrier immediately above the title of the voucher form. Original Government bills of lading, standard Form 1103, or transportation requests, standard Form 1169, or certificates in lieu thereof, standard Forms 1108 or 1172, respectively, shall be attached to these vouchers.

§ 24.36 Refunds of excessive duties, taxes, etc.

(a) When it is found upon, or prior to, liquidation or reliquidation of an entry or reconciliation that a refund of excessive duties, taxes, fees or interest (at the rate determined in accordance with § 24.3a(c)(1)) is due, a refund shall be prepared in the name of the person to whom the refund is due, as determined under paragraphs (b) and (c) of this section. If an authority to mail checks to someone other than the payee, Customs Form 4811, is on file, the address of the payee shall be shown as in care of the address of the authorized persons. If a power of attorney is

on file, the address of the payee may be shown as in care of the address of such attorney, if requested. A Form 4811 received by Customs will not be effective if a Customs transaction requiring the use of the owner's importer number has not been made within 3 years from the date the Form 4811 was filed or if there is no unliquidated entry on file to which such number is to be associated. For purposes of this section:

(1) Except as otherwise provided in paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the refund shall include interest on the excess moneys deposited with Customs, and such interest shall accrue from the date the duties, taxes, fees or interest were deposited or, in a case in which a proper claim is filed under 19 U.S.C. 1520(d) and subpart D of Part 181 of this chapter, from the date such claim is filed, to the date of liquidation or reliquidation of the applicable entry or reconciliation. An example follows:

Example: Entry liquidates for a refund



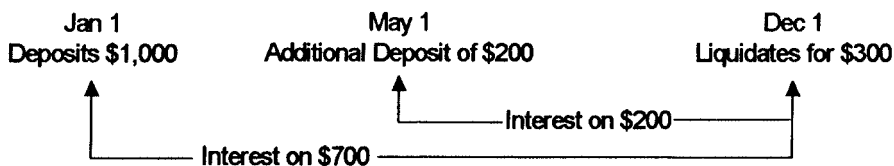
Importer is owed a refund of \$600 plus interest as follows:

The importer makes a \$1,000 initial deposit (January 1) and the entry liquidates for \$400 (December 1). Upon liquidation, the importer will be owed a refund of \$600 plus interest. The interest will accrue from the date of deposit (January 1) to the date of liquidation (December 1).

(i) If an additional deposit of duties, taxes, fees or interest was made prior to liquidation or reliquidation and if any portion of that additional deposit

was in excess of the amount required to be deposited, in addition to any other interest accrued under this paragraph (a)(1), the refund also shall include interest accrued on the excess additional deposit from the date of the additional deposit to the date of liquidation or reliquidation of the applicable entry or reconciliation. An example follows:

Example: Additional deposit made and entry liquidates for a refund



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Importer is owed a refund of \$900 plus interest as follows:

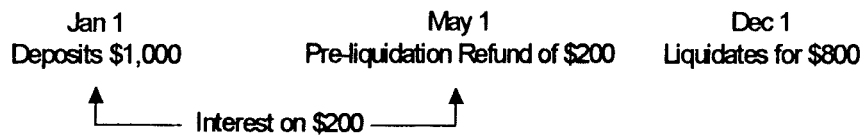
The importer makes a \$1,000 initial deposit (January 1) and an additional pre-liquidation deposit of \$200 (May 1) and the entry liquidates for \$300 (December 1). Upon liquidation, the importer will be refunded \$900 plus interest. The interest accrues in two segments: (1) On the additional deposit overpayment (\$200), from the date of the additional deposit (May 1) to the date of liquidation (December 1); and (2) on the initial deposit overpayment (\$700), from the date of deposit (January 1) to the date of liquidation (December 1).

(ii) In the case of a refund of duties, taxes, fees or interest made prior to liquidation, such a refund will include

only principal amounts and not any interest thereon. Interest on such principal amounts will be computed at the time of liquidation or reliquidation and shall accrue as follows:

(A) Interest shall only accrue on the amount refunded from the date the duties, taxes, fees or interest were deposited to the date of the refund if the amount refunded is determined upon liquidation or reliquidation of the applicable entry or reconciliation to constitute the true excess amount deposited with Customs. An example follows:

Example: Pre-liquidation refund and entry liquidates for net amount collected



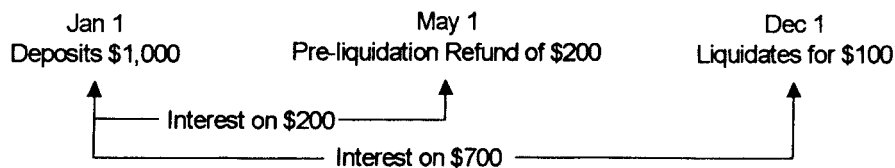
Importer is owed a refund of interest on \$200 as follows:

The importer makes a \$1,000 initial deposit (January 1) and receives a pre-liquidation refund of \$200 (May 1) and the entry liquidates for \$800 (December 1). Upon liquidation, the importer will be refunded interest on the \$200 overpayment from the date of the initial deposit (January 1) to the date of the pre-liquidation refund (May 1).

(B) If the amount refunded is determined upon liquidation or reliquidation of the applicable entry or rec-

onciliation to constitute less than the true excess amount deposited with Customs, in addition to any other interest accrued under this paragraph (a)(1), interest also shall accrue on the remaining excess deposit from the date the duties, taxes, fees or interest were deposited to the date of liquidation or reliquidation. An example follows:

Example: Pre-liquidation refund and entry liquidates for an additional refund



Importer is owed a refund of \$700 plus interest as follows:

The importer makes a \$1,000 initial deposit (January 1) and receives a pre-liquidation refund of \$200 (May 1) and the entry liquidates for \$100 (December 1). Upon liquidation, the importer will be refunded \$700 plus interest. The interest accrues in two segments: (1) On the pre-liquidation refund (\$200), from the date of deposit (January 1) to the date of the

pre-liquidation refund (May 1); and (2) on the remaining overpayment (\$700), from the date of deposit (January 1) to the date of liquidation (December 1).

(C) If an entry or reconciliation is determined upon liquidation or reliquidation to involve both an initial underpayment and an additional excess deposit, interest in each case shall be

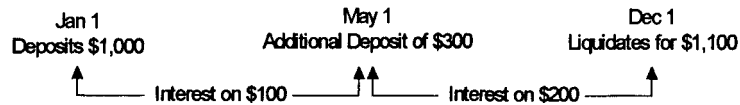
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computed separately and the resulting amounts shall be netted for purposes of determining the final amount of inter-

est to be reflected in the refund. An example follows:

Example: Additional deposit made and entry liquidates for a refund



Importer is owed a refund of \$200 plus or minus net interest as follows: The importer makes a \$1,000 initial deposit on the required date (January 1) and an additional pre-liquidation deposit of \$300 (May 1) and the entry liquidates for \$1,100 (December 1). Upon liquidation, the importer will be refunded \$200 plus or minus net interest. The interest accrues in two segments: (1) Interest accrues in favor of the Government on the initial underpayment (\$100) from the date deposit was required (January 1) to the date of the additional deposit (May 1); and (2) interest accrues in favor of the importer on the overpayment (\$200) from the date of the additional deposit (May 1) to the date of liquidation (December 1).

(D) If the amount refunded or any portion thereof exceeds the amount properly refundable as determined upon liquidation or reliquidation of the applicable entry or reliquidation, the excess amount refunded shall be treated as an underpayment of duties, taxes, fees or interest on which interest shall accrue as provided in §24.3a.

(2) A refund determined to be due upon liquidation or reliquidation, including a refund consisting only of interest that has accrued in accordance with paragraph (a)(1)(ii) of this section, shall be paid within 30 days of the date of liquidation or reliquidation of the applicable entry or reconciliation.

(3) If a refund, including any interest thereon, is not paid in full within the applicable 30-day period specified in paragraph (a)(2) of this section, the refund shall be considered delinquent thereafter and interest shall accrue on the unpaid balance by 30-day periods until the full balance is paid. However, no interest will accrue during the 30-day period in which the refund is paid.

(b) Refunds of excessive duties, taxes, fees or interest shall be certified for payment to the importer of record unless a transferee of the right to with-

draw merchandise from bonded warehouse is entitled to receive the refund under section 557(b), Tariff Act of 1930, as amended, or an owner's declaration has been filed in accordance with section 485(d), Tariff Act of 1930, or a surety submits evidence of payment to Customs, upon default of the principal, of amounts previously determined to be due on the same entry or transaction. The certification of a refund for payment to a nominal consignee may be made prior to the expiration of the 90-day period within which an owner's declaration may be filed as prescribed in section 485(d) of the Tariff Act, provided the nominal consignee waives in writing his right to file such declaration. If an owner's declaration has been duly filed, the refund shall be certified for payment to the actual owner who executed the declaration, except that, irrespective of whether an owner's declaration has been filed, refunds shall be certified for payment to a transferee provided for in section 557(b), Tariff Act of 1930, as amended, if the moneys with respect to which the refund was allowed were paid by such transferee. If a surety submits evidence of payment to Customs, upon default of the principal, for an amount previously determined to be due on an entry or transaction the refund shall be certified to that surety up to the amount paid by it or shall be applied to other obligations of the surety.

(c) If the nominal consignee has become bankrupt, refunds of duties, taxes, fees or interest on merchandise entered in the name of such nominal consignee for the account of the actual owner shall be withheld from payment pending the receipt of a claim therefor and the establishment of rights thereto, unless the declaration of the actual

owner has been filed with the port director under section 485(d), Tariff Act of 1930.

(d) The authority of port directors to make refunds pursuant to paragraphs (a), (b), and (c) of this section of excessive deposits of alcohol or tobacco taxes, as defined in section 6423(e)(1), Internal Revenue Code of 1954 (26 U.S.C. 6423(e)(1)), is confined to cases of the types which are excepted from the application of section 6423, Internal Revenue Code of 1954 (26 U.S.C. 6423). The excepted types of cases and, therefore, the types in which the port director is authorized to make refunds of such taxes are those in which:

(1) The tax was paid or collected on an article imported for the personal or household use of the importer;

(2) The refund is made pursuant to provisions of laws and regulations for drawback;

(3) The tax was paid or collected on an imported article withdrawn from the market, returned to bond, or lost or destroyed, when any law expressly provides for refund in such case;

(4) The tax was paid or collected on an imported article which has been lost, where a suit or proceeding was instituted before June 15, 1957;

(5) The refund of tax is pursuant to a claim based solely on errors of computation of the quantity of the imported article, or on mathematical errors in computation of the tax due;

(6) The tax was paid or collected on an imported article seized and forfeited, or destroyed, as contraband;

(7) The tax was paid or collected on an imported article refused admission to Customs territory and exported or destroyed in accordance with section 558, Tariff Act of 1930, as amended;

(8) The refund of tax is pursuant to a reliquidation of an entry under section 520(c)(1), Tariff Act of 1930, as amended, and does not involve a rate of tax applicable to an imported article; or

(9) The tax was paid or collected on a greater quantity of imported articles than that actually imported and the fact of the deficiency is established to the port directors' satisfaction before liquidation of the entry becomes final.

(e) In any instance in which a refund of an alcohol or tobacco tax is not of a type covered by paragraph (d) of this

section the following procedure shall apply:

(1) The port director shall issue a notice of refund for duty only and shall place the following statement on the notice of refund issued for duty: "Claim or refund of any overpayment of internal revenue tax on this entry must be executed and filed with the assistant regional commissioner (alcohol, tobacco and firearms) of the internal revenue region in which the claimant is located, in accordance with internal revenue regulations (Title 26 of the Code of Federal Regulations)." On request of the claimant, the port director shall issue a certified statement on Customs letterhead identifying the entry, showing the amount of internal revenue tax deposited with respect to each entry for which a claim on internal revenue Form 843 is to be made, and showing the date of issuance of the notice of refund of duty.

(2) The claim shall be executed on internal revenue Form 843 (original only) which may be procured from offices of the Internal Revenue Service and shall be filed with the assistant regional commissioner (alcohol, tobacco and firearms) of the internal revenue region in which the claimant is located. The certified statement shall be attached to and filed in support of such claim which may include refunds under more than one entry but shall be limited to refunds under entries filed at the same port and the same internal revenue region. The data to be shown on the claim shall be as prescribed in internal revenue regulations, with the exception that any data on the certified statement also required to be shown in the claim need not be restated in the claim.

(3) The date of allowance of refund or credit in respect of such tax for the purposes of section 6407, Internal Revenue Code of 1954 (26 U.S.C. 6407) shall be that date on which a claim is perfected and the refund is authorized for scheduling under the applicable internal revenue regulations.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 67-33, 32 FR 494, Jan. 18, 1967; T.D. 71-289, 36 FR 23150, Dec. 4, 1971; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 99-75, 64 FR 56439, Oct. 20, 1999]

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§ 24.70 Claims; deceased or incompetent public creditors.

(a) Claims for amounts due individual deceased public creditors of the United States (except civilian officers and employees subject to the provisions of section 61f-61k, Title 5, United States Code), should be made on standard Form No. 1055—Revised. Such claims include claims for payments due deceased contractors for articles furnished or services performed, and claims for payments due deceased importers or owners of merchandise on account of refunds of excessive duties, or taxes, or for payment of drawback, etc. Claims for payment of Government checks drawn on the Treasurer of the United States or other authorized Government depository to the order of such public creditors, which cannot be paid because of the death of the payee, should be stated on standard Form 1055—Revised. Information should be furnished regarding the disposition of these checks in case they are not in possession of the claimant, otherwise they should accompany the claim.

(b) No form is prescribed for use of a guardian or committee of an estate of an incompetent in making claim for sums due from the United States. Such guardian or committee may submit in letter form, over his address and signature, an application for amounts due an estate of an incompetent, setting forth the incompetent's connection with the United States Customs Service. This application should be supported by a short certificate of the court showing the appointment and qualification of the claimant as guardian or committee. In case the total amount due the estate of the incompetent is small, and no guardian or committee of the estate has been or will be appointed, the application may be submitted by the person or persons having care or custody of the incompetent, or by close relatives who will hold any amount found due for the use and benefit of the incompetent. Applications for recurring payments need not be accompanied by an additional certificate of the court, but should be supported by a statement that the appointment is still in full force and effect. All Government checks drawn on the Treasurer of the United States or

other authorized Government depository to the order of individuals which cannot be paid because of incompetency of the payee should accompany the claim, otherwise an explanation should be given as to the disposition of the check.

(c) Claims for payments due deceased or incompetent contractors should be submitted to the Customs field officer at whose order the articles were furnished or services performed. Claims for refunds of excessive duties, or taxes, or for payment of drawback and other similar claims due deceased or incompetent public creditors shall be submitted to the port director. The Customs field officer may grant necessary assistance to claimants to insure proper execution of standard Form 1055—Revised in the case of deceased public creditors, and in the case of incompetent public creditors to insure submission of the application in proper form. The port director shall settle the claim unless there is a doubtful question of fact or law, in which case the claim shall be forwarded to the Accounting Services Division, Accounts Receivable Group, Indianapolis, Indiana, with originals or certified copies of any necessary documents and with an appropriate report and recommendation.

[28 FR 14808, Dec. 31, 1963, as amended by T.D. 68-142, 33 FR 8225, June 1, 1968; T.D. 91-77, 56 FR 46114, Sept. 10, 1991]

§ 24.71 Claims for personal injury or damages to or loss of privately owned property.

Procedures for the settlement of claims arising from actions of Treasury Department employees are published in 31 CFR part 3.

§ 24.72 Claims; set-off.

When an importer of record or other party has a judgment or other claim allowed by legal authority against the United States, and he is indebted to the United States, either as principal or surety, for an amount which is legally fixed and undisputed, the port director shall set off so much of the judgment or other claim as will equal the amount of the debt due the Government.

[T.D. 56388, 30 FR 4671, Apr. 10, 1965]

§ 24.73 Miscellaneous claims.

Every claim of whatever nature arising under the Customs laws which is not otherwise provided for shall be forwarded directly to Headquarters, U.S. Customs Service, together with all supporting documents and information available.

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

METAL ARTICLES IMPORTED TO BE USED IN REMANUFACTURE BY MELTING, OR TO BE PROCESSED BY SHREDDING, SHEARING, COMPACTING, OR SIMILAR PROCESSING WHICH RENDERS THEM FIT ONLY FOR THE RECOVERY OF THE METAL CONTENT

Sec.

54.5 Scope of exemptions; nondeposit of estimated duty.

54.6 Proof of intent; bond; proof of use; liquidation.

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 23; Section XV, Note 5, Harmonized Tariff Schedule of the United States), 1623, 1624.

METAL ARTICLES IMPORTED TO BE USED IN REMANUFACTURE BY MELTING, OR TO BE PROCESSED BY SHREDDING, SHEARING, COMPACTING, OR SIMILAR PROCESSING WHICH RENDERS THEM FIT ONLY FOR THE RECOVERY OF THE METAL CONTENT

§ 54.5 Scope of exemptions; nondeposit of estimated duty.

(a) Except as otherwise provided in this section, articles predominating by weight of metal to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, and actually so used, shall be entitled to free entry upon compliance with § 54.6, if entered, or withdrawn from warehouse for consumption, during the effective period of subheadings 9817.00.80 and 9817.00.90, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202). This provision does not apply to:

- (1) Articles of lead, zinc, or tungsten;
- (2) Metal-bearing materials provided for in section VI, Chapter 26 or subheading 8548.10, HTSUS; or
- (3) Unwrought metal provided for in Section XV, HTSUS."

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal from warehouse for consumption, of the articles described in paragraph (a) of this section if the port director is satisfied at the time of entry, or withdrawal, by written declaration of the importer that the merchandise is being imported to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of the metal content.

[T.D. 80-151, 45 FR 38041, June 6, 1980, as amended by T.D. 87-75, 52 FR 20067, May 29, 1987; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 98-4, 62 FR 68165, Dec. 31, 1997]

§ 54.6 Proof of intent; bond; proof of use; liquidation.

Articles predominating by weight of metal, described in § 54.5(a) shall be admitted free of duty upon compliance with the following conditions:

(a) There shall be filed in connection with the entry a statement of the importer consistent with the requirements of § 10.134 of this chapter.

(b) If the articles are entered for consumption or warehouse, a bond shall be filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. Withdrawals from warehouse shall be made on Customs Form 7501. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

(c) Within 3 years from the date of entry, or withdrawal from warehouse for consumption, the importer shall submit to the director of the port of entry, a statement from the superintendent or manager of the plant at which the articles were used in remanufacture by melting, or were processed by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, showing:

- (1) The name and location of the plant;
- (2) The entry number, date, and port of entry (if the person making the statement is not in possession of this information, a reference to invoices,