

§ 24.24

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Finding Aids section of the printed volume and at *www.fdsys.gov*.

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

§ 24.24 Harbor maintenance fee.

(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:

(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.

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 Iliuliuk 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.

U.S. Customs and Border Protection, DHS; 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
Delaware	
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 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.
District of Columbia	
Potomac River Ports, DC, MD, VA * 5402—Alexandria, VA 5401—Washington, DC	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.
Florida	
1807—Boca Grande 1805—Fernandina Beach 5205—Fort Pierce 1803—Jacksonville 5202—Key West 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 Mississippi River Ports/Baton Rouge and Vicinity * .. 2004—Baton Rouge 2010—Gramercy Mississippi River Ports/New Orleans and Vicinity * .. 2002—New Orleans 2005—Port Sulphur 2001—Morgan City *	Includes all points on the Calcasieu River and Pass. Also includes Mermentau River from Catfish Point Control Structure to the Gulf. 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. 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. 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.

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
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*	Includes all Maryland points on the Chesapeake Bay and its tributary waters except for the Potomac Rivers. 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.)
1303—Baltimore	
1302—Cambridge	
1301—Annapolis	
Massachusetts	
0401—Boston	Includes all of the Port of Boston inshore of Castle Island on the Inner Harbor and Chelsea and Mystic River 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	
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 on the Rouge and Black Rivers. Fee also applies at Harbor Beach, MI. All movements within this area between Monroe and Harbor Beach, MI are intraport.
3801—Detroit	
3802—Port Huron	
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 Waterway, Presque Isle Harbor and Marquette and Grand Marais. Movements between all Michigan ports on Lake Superior are intraport.
3809—Marquette	
3842—Presque Isle	
Eastern Lake Michigan Ports	Fee applies at Charlevoix, Frankfort, Portage Lake, Manatee, Ludington, Pentwater Harbor, Ferrysburg, White Lake Harbor, Muskegon, Grand Haven, and South Haven, Holland, and St. Joseph/Benton Harbor, MI. All movements between Eastern Lake Michigan ports are intraport.
3815—Muskegon	
3816—Grand Haven	
3844—Ferrysburg	
Upper Lake Huron Ports	Includes all points on the St. Mary's River, the ports of Cheyboygan, Alpena, Bay City, and Saginaw River. Does not include Alabaster, Cacit, Port Dolomite, Port Inland, Port Gypum or Stoneport. Movements within an area from Sault Ste. Marie and the Saginaw River are intraport.
3803—Sault Ste. Marie	
3804—Saginaw-Flint-Bay City	
3843—Alpena	
Minnesota	
Duluth/Superior Area Ports	Fee applies at Two Harbors and Duluth, MN, and Superior, WI. Fee also applies at Ashland and Port Wing, WI and Grand Marais, MN. Fee does not apply at Taconite, or Silver Bay, MN. All movements between Silver Bay, MN and Ashland, WI are considered intraport.
3601—Duluth	
3602—Ashland	
3608—Superior	
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 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, PA. 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.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
1003—Newark	See New York Harbor.
1004—Perth Amboy	See New York Harbor.

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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
New York	
New York Harbor, NY, NJ* 1001—New York 1003—Newark 1004—Perth Amboy	Includes all points in New York and New Jersey with the Port of New York on the waters inshore of a line between Sandy Hook and Rockaway Point and south of Tappan Zee Bridge on the Hudson and west of Throgs Neck Bridge of the East River. Movements 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 Atlantic Ocean entrance. Movements within this area are intraport.
Ohio	
Lake Erie Ports	Includes Toledo, Sandusky, Huron, Lorain, Cleveland, Fairport, Ashtabula, Conneaut and Erie. Movements between these points are intraport. Fee does not apply at Marblehead.
4108—Ashtabula	
4101—Cleveland	
4109—Conneaut	
4106—Erie, PA	
4111—Fairport	
4117—Huron	
4121—Lorain	
4105—Toledo-Sandusky	
Oregon	
Columbia River Ports, OR, 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.
2901—Astoria, OR	
2904—Portland, OR	
2909—Kalama, WA	
2905—Longview, WA	
2908—Vancouver, WA	
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* ..	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.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
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	

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

Port code, port name and state	Port descriptions and notations
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	
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 Commencement 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,	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.
OR,	
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	

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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
Western Lake Michigan Ports 3701—Milwaukee 3708—Racine 3707—Sheboygan	Includes the ports of Milwaukee, Racine, and Sheboygan, MN. All movements between these points are intraport.

*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,

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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 nonprofit organizations or cooperatives which is certified by the CBP 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 CBP. Subsequent to payment of the fee, a refund request may be made by electronically submitting to CBP the Harbor Maintenance Fee Amended Quarterly Summary Report (CBP Form 350), as well as the Harbor Maintenance Fee Quarterly Summary Report (CBP Form 349) for the quarter covering the payment to which the refund request relates, using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. In the alternative, the requisite forms may be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov. Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, any sup-

porting documentation deemed necessary by CBP to certify that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas (including contiguous countries). 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. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

(ii) Each nonprofit organization or cooperative claiming the exemption under this subpart must maintain documentation pertaining to the exemption for a period of 5 years. The documentation must be made available for inspection by CBP 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 will 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 must pay all accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov.

(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 CBP appraised value of the shipment pursuant to 19 U.S.C. 1401a, the same basis as that used for duty payment. The fee will 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 must be paid in accordance with the normal CBP 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 CBP Entry Summary Form (CBP Form 7501), is to be completed with the amount of the fee shown and identified on the form. The fee must 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 must be attached to the CBP 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, must pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border

Protection, using the current address posted at Forms.CBP.gov. Fees must 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 must pay the accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov.

(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.

(ii) *Time limit for refund requests*. A refund request must be received by CBP within one year of the date the fee for which the refund is sought was paid to CBP 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, CBP Form 350, along with a copy of the Harbor Maintenance Fee Quarterly Summary Report, CBP 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. Supplemental payments and HMF refund requests, accompanied by the requisite CBP Forms 350 and 349 and, if applicable, supporting documentation, must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov. If a supplemental payment is mailed, a single check or money order payable to U.S. Customs and Border Protection must be attached to each CBP Form 350. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

(iv) *For fees paid on export movements*. CBP will process refund requests relative to fee payments previously made

regarding the loading of cargo for export as follows:

(A) *Refund request.* 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 the proof of payment set forth in paragraph (e)(4)(iv)(C) of this section. For export fee payments made on or after July 1, 1990, supporting documentation is not required with the refund request. For these payments, the request must specify the grounds for the refund, identify the quarters for which a refund is sought, and contain 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. Refund requests must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov. Approved HMF refund payments will be made using the ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

(B) *Refund procedure—(1) Processing order; power of attorney.* Generally, a properly filed refund request will be processed in the chronological order of its receipt. A refund request filed on behalf of an exporter by an agent other than a freight forwarder must be supported by a power of attorney or letter signed by the exporter authorizing the representation. A refund request filed by an agent other than a freight forwarder that lacks a power of attorney or authorization letter will not be processed unless one or the other is submitted. A refund request filed by a freight forwarder does not require a power of attorney or authorization let-

ter to be processed; however, if CBP has not received a power of attorney or authorization letter for an exporter covered in a freight forwarder's refund request and that exporter has filed a separate refund request on its own behalf, that freight forwarder's entire refund request will be removed from the chronological processing order and processed after the processing of all exporter refund requests is completed.

(2) *HMT Payment Report and Report/Certification.* In processing a request for a refund, CBP will conduct a search of its records (CBP electronic database and paper document sources) and produce for issuance to the exporter (or its agent, as appropriate) a "Harbor Maintenance Tax Payment Report" (HMT Payment Report) that lists all payments reflected in those records for the entire period the fee was in effect. CBP will also produce for issuance to the exporter a "Harbor Maintenance Tax Refund Report and Certification" (Report/Certification) that lists all payments supported by paper documentation, either retained by CBP (relative to payments made on and after July 1, 1990) or submitted by the exporter with its refund request (relative to payments made at any time the fee was in effect). Where a refund request was filed on the exporter's behalf by an agent other than a freight forwarder, a power of attorney or authorization letter must be filed with CBP before CBP will issue these reports. The Report/Certification sets forth the total amount of the refund that CBP believes it owes the exporter for the payments listed in that report (minus any previous refunds). Pre-July 1, 1990, payments listed in the HMT Payment Report for which paper documentation has not been provided by the exporter will not be listed in the Report/Certification. The exporter has 120 days from the date the HMT Payment Report and the Report/Certification are issued (the 120-day period) to sign and return to CBP the Report/Certification in order to receive the refund set forth in that report and/or to submit to CBP a request for a Revised Report/Certification. Where the exporter chooses to receive the refund set forth in the Report/Certification, the exporter must sign and return the report to CBP. CBP

will issue the refund upon receipt of the signed report.

(3) *Revised Report/Certification.* A request for a Revised Report/Certification must be accompanied by documentation to support any payments not listed in the Report/Certification or corrections to listed payments. See paragraph (e)(4)(iv)(C) of this section regarding acceptable documentation. If an exporter (or its agent, as appropriate) both signs and returns to CBP a Report/Certification and requests a Revised Report/Certification, CBP will not, when reviewing the request for a Revised Report/Certification, approve for refund any corrections to the payments that were listed in the signed Report/Certification; CBP will, however, in that circumstance, consider approving any additional payments that were not listed in the signed Report/Certification. If an exporter does not sign and return to CBP a Report/Certification, but requests a Revised Report/Certification, CBP will consider approving for refund corrections to the payments listed in the Report/Certification and additional payments. Where the exporter requests a Revised Report/Certification, CBP will review the documentation submitted with the request, make a determination, and, within 60 days of the request's receipt, issue a Revised Report/Certification that lists all payments approved for refund and the total amount of the refund owed. In order to receive the refund set forth in a Revised Report/Certification, the exporter must sign and return it to CBP. CBP will issue the refund upon its receipt of the signed report. An exporter, within the 120-day period, may submit additional requests for a Revised Report/Certification, with appropriate documentation, to cover any payments not approved for refund in a Revised Report/Certification previously issued by CBP.

(4) *Protest.* For purposes of filing a protest under 19 U.S.C. 1514 (and 19 CFR part 174), unless issuance of a Revised Report/Certification is pending, any payments not approved for refund in a Report/Certification or a Revised Report/Certification issued by CBP within the 120-day period will be considered denied as of the date the period expires; a protest covering such pay-

ments must be filed within 180 days of that date. For any payments not approved for refund in a Revised Report/Certification issued after expiration of the 120-day period, a protest may be filed within 180 days of that report's issuance.

(5) *Significance of signed Report/Certification and Revised Report/Certification.* A Report/Certification or Revised Report/Certification must be signed by an officer of the company duly authorized to bind the company or by an agent (such as a broker or freight forwarder) representing the exporter in seeking a refund under this section. A Report/Certification or Revised Report/Certification signed by the exporter or its agent and received by CBP constitutes the exporter's agreement that the amount of the refund set forth in the report is accurate and CBP's payment of that refund amount is in full accord and satisfaction of all payments approved for refund in the report. The signed Report/Certification or Revised Report/Certification also represents the exporter's release, waiver, and abandonment of all claims, excluding claims for interest, against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages arising out of the payments approved for refund in the report. When an agent, including a freight forwarder, signs a Report/Certification or Revised Report/Certification on behalf of an exporter(s), the agent certifies that it is acting on the exporter's behalf and will use due diligence to forward the refund to the exporter, and, in the event the agent does not forward the refund to the exporter, will notify Customs and return the refund to CBP within one year of its receipt of the refund. Upon receipt of the signed Report/Certification or Revised Report/Certification, CBP releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all payments approved for refund in the report.

(C) *Documentation.* For payments made prior to July 1, 1990, supporting documentation is required to obtain a refund and must be submitted in accordance with paragraphs (e)(4)(iv)(A)

and/or (B)(3) of this section. For payments made on and after July 1, 1990, supporting documentation is not required to obtain a refund, unless the exporter seeks to prove corrections of payments listed in the Report/Certification (if the exporter did not sign and return it to CBP) and/or additional payments not listed in a Report/Certification, in accordance with paragraph (e)(4)(iv)(B)(3) of this section. The supporting documentation that CBP will accept as establishing entitlement to a refund, whether submitted with a refund request or a request for a Revised Report/Certification, is whichever of the following documents CBP accepted with the payment at the time it was made: a copy of the Export Vessel Movement Summary Sheet; where an Automated Summary Monthly Shipper's Export Declaration was filed, a copy of 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; or a copy of a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349, for the quarter covering the refund requested. CBP also will consider other documentation offered as proof of payment of the fee, such as cancelled checks and/or affidavits from exporters attesting to the fact that all quarterly harbor maintenance tax payments made by the exporter were made exclusively for exports, and will accept that other documentation as establishing entitlement for a refund only if it clearly proves the payments were made for export harbor maintenance fees in the amounts sought to be refunded and were made by the party requesting the refund or the party on whose behalf the refund was requested.

(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 must maintain all such documentation necessary for CBP to verify

the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation must be maintained for a period of 5 years from the date of fee calculation. The affected parties must advise the Director, Revenue Division, U.S. Customs and Border Protection, at the current address posted at Forms.CBP.gov, of the name, address, email and telephone number of a responsible officer who is able to verify any records required to be maintained under this paragraph. The Director, Revenue Division, must be promptly notified of any changes in the identifying information submitted. The records must be maintained and made available for inspection, copying, reproduction or other official use by CBP 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 will 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 will 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 must follow the procedures set forth in part 171 of this chapter in filing an application for relief. Any application to cancel liquidated damages incurred must be made in accordance with part 172 of this chapter.

(3) *Mitigation.* Any penalty assessed under this provision will 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 will be mitigated in a manner consistent with guidelines published by the authority of the Commissioner of CBP for cancellation of claims for untimely payment of estimated duties, taxes and charges.

§ 24.25

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(i) *Privacy Act notice.* Whenever an identification number is requested on the summary sheets provided for in 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; T.D. 02-24, 67 FR 31953, May 13, 2002; CBP Dec. 08-25, 73 FR 40726, July 16, 2008; CBP Dec. 09-44, 74 FR 61268, Nov. 24, 2009]

§ 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 (du-

ties, 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 statement 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(b) 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