

**§ 4.27 Additional reporting by advisors of certain large commodity pools.**

(a) *General definitions.* For the purposes of this section:

(1) *Commodity pool operator* or *CPO* has the same meaning as commodity pool operator defined in section 1a(11) of the Commodity Exchange Act;

(2) *Commodity trading advisor* or *CTA* has the same meaning as defined in section 1a(12);

(3) *Direct* has the same meaning as defined in section 4.10(f);

(4) *Net asset value* or *NAV* has the same meaning as net asset value as defined in section 4.10(b);

(5) *Pool* has the same meaning as defined in section 1(a)(10) of the Commodity Exchange Act;

(6) *Reporting period* means the reporting period as defined in the forms promulgated hereunder;

(b) *Persons required to report.* A reporting person is:

(1) Any commodity pool operator that is registered or required to be registered under the Commodity Exchange Act and the Commission's regulations thereunder; or

(2) Any commodity trading advisor that is registered or required to be registered under the Commodity Exchange Act and the Commission's regulations thereunder.

(c) *Reporting.* (1) Except as provided in paragraph (c)(2) of this section, each reporting person shall file with the National Futures Association, a report with respect to the directed assets of each pool under the advisement of the commodity pool operator consistent with appendix A to this part or commodity trading advisor consistent with appendix C to this part.

(2) All financial information shall be reported in accordance with generally accepted accounting principles consistently applied.

(d) *Investment advisers to private funds.* Except as otherwise expressly provided in this section, CPOs and CTAs that are dually registered with the Securities and Exchange Commission and are required to file Form PF pursuant to the rules promulgated under the Investment Advisers Act of 1940, shall file Form PF with the Securities and Exchange Commission in lieu of filing such other reports with respect to private funds as may be required under this section. In addition, except as otherwise expressly provided in this section, CPOs and CTAs that are dually registered with the Securities and Exchange Commission and are required to file Form PF pursuant to the rules promulgated under the Investment Advisers Act of 1940, may file Form PF with the Securities and Exchange

Commission in lieu of filing such other reports with respect to commodity pools that are not private funds as may be required under this section. Dually registered CPOs and CTAs that file Form PF with the Securities and Exchange Commission will be deemed to have filed Form PF with the Commission for purposes of any enforcement action regarding any false or misleading statement of a material fact in Form PF.

(e) *Filing requirements.* Each report required to be filed with the National Futures Association under this section shall:

(1)(i) Contain an oath and affirmation that, to the best of the knowledge and belief of the individual making the oath and affirmation, the information contained in the document is accurate and complete; *Provided, however,* That it shall be unlawful for the individual to make such oath or affirmation if the individual knows or should know that any of the information in the document is not accurate and complete and

(ii) Each oath or affirmation must be made by a representative duly authorized to bind the CPO or CTA.

(2) Be submitted consistent with the National Futures Association's electronic filing procedures.

(f) *Termination of reporting requirement.* All reporting persons shall continue to file such reports as are required under this section until the effective date of a Form 7W filed in accordance with the Commission's regulations.

(g) *Public records.* Reports filed pursuant to this section shall not be considered Public Records as defined in § 145.0 of this chapter.

**Editorial Note:** FR DOC 2012-3390 appearing on pages 11252-11344 in the issue of Friday, February 24, 2012 is being partially republished due to numerous errors.

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**DEPARTMENT OF HOMELAND SECURITY**
**U.S. Customs and Border Protection**
**DEPARTMENT OF THE TREASURY**
**19 CFR PARTS 4 and 24**

[CBP Dec. 12-04; USCBP-2008-0085]

RIN 1515-AD74

**Interest on Untimely Paid Vessel Repair Duties**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, without change, the proposed amendments to the CBP regulations that provide that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest. The purpose of this document is to ensure that the CBP regulations reflect that CBP collects interest as part of its inherent revenue collection functions in situations where an owner or master of a vessel fails to pay the vessel repair duties determined to be due within 30 days of CBP issuing the bill.

**DATES:** *Effective Date:* April 25, 2012.

**FOR FURTHER INFORMATION CONTACT:** George F. McCray, Chief, Cargo Security, Carriers and Immigration Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082.

**SUPPLEMENTARY INFORMATION:**
**Background**

On April 1, 2011, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (76 FR 18132) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) regarding the payment of interest on untimely paid vessel repairs. Specifically, CBP proposed amendments to the regulations to provide that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest.

CBP solicited comments on the proposed rulemaking.

**Discussion of Comment**

One commenter responded to the solicitation of public comment in the proposed rule. The comment was favorable and recommended adoption of the proposed amendments as a final rule.

**Conclusion**

In light of the fact that a single favorable comment was submitted in response to CBP's solicitation of public comment, CBP has determined to adopt as final the proposed rule published in

the Federal Register (76 FR 18132) on April 1, 2011 without change.

**The Regulatory Flexibility Act and Executive Order 12866**

Because these amendments merely reflect the agency’s revenue collection functions and rights, and impose no additional regulatory burden on the importing public, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

**Paperwork Reduction Act**

As there are no new collections of information in this document, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

**Signing Authority**

This rulemaking is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

**List of Subjects**

19 CFR Part 4

Administrative practice and procedure, Cargo vessels, Customs duties and inspection, Entry, Passenger vessels, Penalties, Repairs, Reporting and recordkeeping requirements, Shipping, Vessels.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

**Amendments to the Regulations**

For the reasons set forth in the preamble, parts 4 and 24 of title 19 of the CFR (19 CFR Parts 4 and 24) are amended as set forth below.

**PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE**

■ 1. The general authority citation for part 4 continues, and the specific authority citation for § 4.14 is revised, to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

\* \* \* \* \*

Section 4.14 also issued under 19 U.S.C. 1466, 1498; 31 U.S.C. 9701.

\* \* \* \* \*

- 2. In § 4.14:
  - a. The section heading is revised;
  - b. Paragraph (i)(3) is redesignated as paragraph (i)(4) and a new paragraph (i)(3) is added; and
  - c. Paragraph (j)(1) is amended by adding a new third sentence.

The revisions and additions read as follows:

**§ 4.14 Equipment purchases for, and repairs to, American vessels.**

\* \* \* \* \*

(i) \* \* \*

(3) *Application for Relief; failure to file or denial in whole or in part.* If no Application for Relief is filed, or if a timely filed Application for Relief is denied in whole or in part, the VRU will determine the amount of duty due and issue a bill to the party who filed the vessel repair entry. If the bill is not timely paid, interest will accrue as provided in § 24.3a(b)(1) of this chapter.

(j) \* \* \*

(1) \* \* \* The owner or master of the vessel who fails to timely pay the duty determined to be due is liable for interest as provided in § 24.3a(b)(1) of this chapter.

\* \* \* \* \*

**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

■ 3. The general authority citation for part 24 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States, 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 3717, 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

\* \* \* \* \*

- 4. Section 24.3a is amended:
  - a. By revising the section heading;
  - b. In paragraph (a): by adding, after the parenthetical phrase that ends with the word “reliquidation”, the language “, or vessel repair duties.”; and by removing the words “shall be” and adding in their place the word “are”;
  - c. In the heading text to paragraph (b)(1), by adding after the word “for” the words “vessel repair duties.”;
  - d. In paragraph (b)(2)(i) introductory text, by removing the word “shall” and adding in its place the word “will”;
  - e. In paragraph (b)(2)(i)(A), by removing the word “shall” and adding in its place the word “will”;
  - f. In paragraph (b)(2)(i)(B) introductory text, by removing the word “shall” and adding in its place the word “will”;

- g. In paragraph (b)(2)(i)(B)(1), by removing the word “shall” and adding in its place the word “will”;
- h. In paragraph (b)(2)(i)(B)(2), by removing the word “shall” and adding in its place the word “will”;
- i. In paragraph (b)(2)(i)(B)(3), by removing the word “shall” wherever it appears and adding in each place the word “will”;
- j. In paragraph (b)(2)(i)(B)(4), by removing the word “shall” and adding in its place the word “will”;
- k. In paragraph (b)(2)(i)(C), by removing the word “shall” and adding in its place the word “will”;
- l. In paragraph (b)(2)(ii), by removing the word “shall” wherever it appears and adding in each place the word “will”; and
- m. In paragraph (c)(1), by removing the words “CBP Office of Finance, Indianapolis, Indiana” and adding in their place the language “CBP’s Revenue Division, Office of Administration”.

The revision reads as follows:

**§ 24.3a CBP bills; interest assessment on bills; delinquency; notice to principal and surety.**

\* \* \* \* \*

**David V. Aguilar,**

*Acting Commissioner, U.S. Customs and Border Protection.*

Approved: March 21, 2012.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2012–0153]

**Drawbridge Operation Regulations; Pequonnock River, Bridgeport, CT, Maintenance**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Metro North (Peck) Bridge across the Pequonnock River, mile 0.3, at Bridgeport, Connecticut. The deviation allows the bridge to remain in the closed position to facilitate miter rail repair.

**DATES:** This deviation is effective from April 15, 2012 through June 30, 2012.